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Ontario. Legislative Assembly.
Standing Committee on Regula-
tions and Private Bills.

Debates

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1987

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

ADONA PROPERTIES LIMITED ACT
QUETICO FOUNDATION ACT
CANADIAN OPERA COMPANY ACT
TOWN OF LINDSAY ACT

WEDNESDAY, JUNE 3, 1987

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Callahan, R. V. (Brampton L)

VICE-CHAIRMAN: Haggerty, R. (Erie L)

Bryden, M. H. (Beaches-Woodbine NDP)

Dean, G. H. (Wentworth PC)

Hennessey, M. (Fort William PC)

Lupusella, A. (Dovercourt L)

McKessock, R. (Grey L)

Miller, G. I. (Haldimand-Norfolk L)

Pouliot, G. (Lake Nipigon NDP)

Shymko, Y. R. (High Park-Swansea PC)

Wiseman, D. J. (Lanark PC)

Also taking part:

Bernier, L. (Kenora PC)

Fish, S. A. (St. George PC)

Miller, G. I. (Haldimand-Norfolk L)

Offer, S., Parliamentary Assistant to the Minister of Consumer and Commercial Relations (Mississauga North L)

Clerk: Manikel, T.

Staff:

Mifsud, L., Legislative Counsel

Witnesses:

From Adona Properties Ltd.:

Steadman, D. J., Legal Counsel; with Campbell, Godfrey and Lewtas

From the Quetico Foundation:

Bankes, J. M., Trustee

Wild, C. M., Legal Counsel, with Blake, Cassels and Graydon

From the Canadian Opera Company:

Carson, J. C., Legal Counsel; with Carson, Poultney, Jones, Rogers and Ponesse

From the City of Toronto:

Morrell, D. M., Legal Counsel

From the Town of Lindsay:

Cork, A. R., Legal Counsel; with Warner, Cork and Siegel

Collver, J., Landscape Architect; Consultant to Parks Board

Chester, L. E., Reeve

From the Lindsay Lawn Bowling Club:

Parsons, O., President

From the Ministry of Consumer and Commercial Relations:

Levine, K., Solicitor, Companies Branch

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, June 3, 1987

The committee met at 10:12 a.m. in committee room 1.

Mr. Chairman: I recognize a quorum with members from each party. It is proposed that we first deal with bills Pr39, Pr2 and Pr11 since there are apparently a number of interested parties who have made themselves known to the clerk on the first bill, which is Pr20. Is there any objection to that? Is there consensus on that?

Mr. Bernier: Agreed.

Mr. Chairman: We are going to deal first with bills Pr2 and Pr11 if that is agreeable to the committee. They are straight revivals and they should be very quick.

ADONA PROPRIETIES LIMITED ACT

Consideration of Bill Pr2, An Act to revive Adona Properties Limited.

Ms. Fish: In attendance today is Mr. Steadman, solicitor for Adona Properties. There has been an indication of a request for some corporate information filings. We would perhaps appropriately ask Mr. Steadman to give an undertaking that the filings will be made.

I beg your pardon. They have been made. No longer necessary. Terrific. In that case, barring any questions, there being no objections, I will move the bill.

Mr. Chairman: Mr. Offer, are there any comments from the government?

Mr. Offer: There are no objections from the companies branch.

Ms. Bryden: We are dealing with Pr2. Is that correct?

Mr. Chairman: Yes.

Ms. Bryden: I read the material on this last night and found it told me nothing. We do not even have the address of the business or the nature of the business. We do not have any estimate of the amount of the assets that we are giving back to it because its organization expired in 1979. I think we need more information before we can agree to revive something we know nothing about.

I am surprised the compendium told me none of the material I wanted. There is no financial statement indicating how the company has been operating in the last 10 years and what it has been doing when it was in a dissolved state. This seems rather shocking to me.

Mr. Chairman: I have to confess that when I read the letter, I found the compendium a bit brief, but the explanatory note to the bill is set out in the preamble and it is pretty well self-explanatory.

Ms. Bryden: It does not give me the address or the nature of the business. It does not give me any idea of what their assets are or where they are located. It does not really explain why they were dissolved in December 1979 and have remained in that state since. Surely the companies branch should be aware that a business is operating illegally. They must be dealing with it under the Corporations Tax Act or things of that sort if it has taxable income. I am rather shocked that the previous government did not seem to be aware that a dissolved corporation was operating for the last 10 years.

Mr. Chairman: Mr. Offer, do you have any comments?

Mr. Offer: I can comment with respect to some of Ms. Bryden's concerns. Basically, the company lapsed for two reasons. The first was failure to provide information under the Corporations Information Act and the second was with respect to the filing of the corporation taxes.

With respect to the corporation taxes, there have been no objections received from the Ministry of Revenue. With respect to the information under the Corporations Information Act, we have today received information in compliance with that act, which requires the full address of a registered or head office. That will now be filed pursuant to the Corporations Information Act.

Ms. Bryden: How does the government find out that a company is operating illegally if it is filing information but not notifying the companies branch that apparently a dissolved corporation is still operating? Is there any communication between the administrators of the Corporations Tax Act or the Corporations Information Act and the companies branch to see whether this company really exists?

Mr. Chairman: Mr. Offer, do you want to comment on that, or should we ask Mr. Steadman to comment?

Mr. Offer: With respect to the illegal operation--as you have indicated; those are not my words--the concern of the companies branch is the requisite filings and the requisite payment of taxes. That, of course, falls under the Ministry of Revenue. When those conditions have been met, the Ministry of Consumer and Commercial Relations and, in this case, the Ministry of Revenue indicate to the committee members that there is no objection to the revival of the corporation.

Ms. Bryden: Was there any questioning of the company as to why it defaulted on the information back in 1979? It may have been that they decided they could get away with it and continue to operate. Was it actually that they did not receive the notice saying they were dissolved?

Mr. Chairman: Perhaps we ought to ask Mr. Steadman. Would you like to reply to that?

Mr. Steadman: If I may, the company was originally set up to facilitate a sale and leaseback transaction involving a number of Kinney Shoes stores in Etobicoke, Georgetown, Mississauga and two in Calgary. When it was set up, there was a mortgage to United Benefit Life Insurance Co., and the lease payments went to cover the mortgage. There was no residual interest at that time in the property. It was just a washed transaction, in effect. The income and the expenses matched.

Of course, over the years there has grown to be a reasonable amount of

equity in the property, both because the mortgage is being retired--and it will finally be retired in 2001--and because of the increase in values of properties generally. The transaction was originally set up by a broker in New York. He went on to other things and, in effect, just abandoned the deal in which he had made his money. When it became apparent that there was some equity, he sold it to two gentlemen in New York and they then got into a dispute as to ownership.

1020

I came into it when I originally acted on the incorporation and the mortgage in 1970. I warned them along the way that they were going to lose their company, but could get no instructions. Around 1982, one of the new shareholders came to me and asked me to try to revive it. However, he was in a dispute with the other shareholder and time passed until we went beyond the five-year limit permitted under the new Business Corporations Act. That is the reason for this private bill.

If the shareholders had been able to agree up to, I think, about 1984 or 1985, we could have revived the thing as a matter of right. It was just because of the dispute that the revival took so long.

Mr. Chairman: That dispute delayed the revival in an automatic fashion. Ms. Bryden, I am going to go to Mr. Haggerty, if you do not mind. He has a question, and then I will come back to you.

Mr. Haggerty: I think we have a code of ethics set out in a format for when people come in with a private bill before the members. One of the things I think was raised was that there should be an accompanying letter to us from each ministry, if it has any objections. I hope I am correct in that but that is the way I interpret the intent of our criteria.

Normally, the practice in a private bill of this nature, Pr2, is that the question of the business corporation tax comes into mind. The question is, have those taxes been paid if they are in arrears?

Mr. Chairman: We discussed this in the last session. The information we received was that the ministry could not have that to us ahead of time but that there would be a ministry spokesman here to advise us with regard to those matters. We do have Mr. Offer; we have the government indicating there are no objections. I would assume the taxes have been paid, then.

Ms. Haniford: Yes.

Mr. Chairman: The taxes have been paid.

Mr. Haggerty: But surely if staff members are coming from any ministry they should be able to bring a letter forward and put it on the record. Just going by verbal things, "To my knowledge, there is no objection from the ministry," I do not think is conclusive enough. Perhaps some committee members can make a judgement call on this particular bill.

Mr. Chairman: I have been handed by the clerk a letter from the Minister of Revenue (Mr. Nixon) which clearly states that the corporation's tax requirements have been complied with. They have no objection. If you like we can file that.

Mr. Haggerty: I think that is the information we are looking for.

Mr. Offer: If I could just respond to Mr. Haggerty's comment, the standing orders indicate that bills for revival such as this shall not be introduced to the House for first reading unless and until the Clerk of the House is in receipt of a letter from the Ministry of Revenue. So it is not that this letter must be provided to the committee members; it is much earlier than that. It cannot be read for the first time unless we have the letter. That is standing order 75.

The mere fact that the bill is before the committee means it has been read into the House. That it has been read into the House means the precondition, with respect to a letter from the Ministry of Revenue that there are no outstanding taxes, must have been met.

Mr. Chairman: Otherwise the Clerk would never have put it forward for first reading.

Mr. Haggerty: It was just said that the staff said they had no objections.

Mr. Chairman: We will file that letter then if that makes you feel more comfortable.

Mr. Barlow: On a point of order, Mr. Chairman: Could I have a clarification from you? My son is associated with the law firm of Campbell, Godfrey and Lewtas. Do I have a conflict of interest?

Mr. Chairman: I would not give you that advice, even if you retained me. That is a decision you have to make, Mr. Barlow. I think you have made known your situation.

Mr. Barlow: Perhaps I should refrain from discussing it.

Mr. Chairman: If you do that, we are going to be very short on votes, because Mr. Bernier--Mickey?

Mr. Hennessy: I would suggest that he refrain, citing a possible conflict of interest. Best to play safe than to be sorry. For three dollars, you do not want to be expelled.

Ms. Bryden: I notice that our new guidelines, which may not have been in effect at the time this was submitted--was this bill before your committee earlier?

Ms. Fish: No.

Mr. Chairman: It is the first time.

Ms. Bryden: I thought you had mentioned it earlier. The new guidelines that we adopted for the compendium, which is supposed to come with the application, say that if a bill revives a corporation, there must be a statement as to the reasons for the dissolution and there must be a statement that the companies branch and the corporations tax branch have been consulted, including an indication as to whether either ministry objects to the bill.

We do not seem to have anything here from those two branches in writing. We do have the parliamentary assistant to the Ministry of Consumer and Commercial Relations.

Mr. Chairman: Could I just interrupt for a second? This bill was

started before the new rules were brought out. This bill was started in December 1986.

Ms. Bryden: But it was introduced on April 30. Was it carried over? If it was reintroduced, it seems to me it should then come under the rules and we should have been provided with the statements that should be submitted from both the companies branch and the corporations tax branch, and probably the Ministry of Revenue, as has just been pointed out in the last five minutes. Actually, that is the Ministry of Revenue.

There are the two statements required, but we do not have anything from the companies branch, unless Mr. Offer is acting in that capacity.

Mr. Chairman: Mr. Offer is responding to any concerns the government might have with reference to any bills that are before us. He is here in that capacity.

Ms. Bryden: What is your parliamentary portfolio?

Mr. Offer: I am the parliamentary assistant to the Minister of Consumer and Commercial Relations (Mr. Kwinter) who is also Minister of Financial Institutions. On this committee, I am the government representative of the umbrella group.

Ms. Bryden: So the companies branch comes under you?

Mr. Offer: Yes.

Ms. Bryden: Have you any evidence that the companies branch was consulted when this application came in? They may have some relevant information as to why it took 10 years before anything happened on this and as to whether they knew they were operating illegally in those 10 years.

Mr. Offer: We have officials here from the companies branch, if that would satisfy you. Ms. Levine works with the companies branch.

Ms. Levine: Your concern is whether we knew they were operating?

Ms. Bryden: After they were dissolved.

Ms. Levine: In this case, they were dissolved on the recommendation of the Minister of Revenue, which is one of the ways that a corporation can be dissolved. We notified the corporation of the dissolution. There is no way for us to know whether the corporation or what was the corporation is still carrying on unless we are advised by someone. If they are carrying on, they are carrying on without the shelter of the limited liability. They are carrying on as a business but not as a corporation, which is perfectly lawful.

Ms. Bryden: Do you have any communication with the Ministry of Revenue every year that this company is paying under the Corporations Tax Act?

Ms. Levine: Whether they were paying subsequent to dissolution?

Ms. Bryden: Yes.

Ms. Levine: Well, they would not be paying once they were cancelled. If they wish to be revived, they would contact the Minister of Revenue and we would be contacted. Let us say they were within the five-year period under our

statute. If they came to us before we had revived them, they would have to show us the written consent of the Minister of Revenue and that would be the next time we would be aware of that corporation. In the interim, there would be no way, unless someone notified us. But as I said, there is nothing to prevent them from carrying on as an unincorporated entity.

Ms. Bryden: Could I ask the proponent--I do not know how far back your connection goes with it, but at the time in 1979 when no further information forms appear to have been submitted, were any of the people involved aware they should have continued to send in information?

1030

Mr. Steadman: I advised them as counsel. Our firm is a registered office of the company so the materials kept coming in, both from corporations tax from the Department of National Revenue and from the corporations branch. Whenever they came in, I forwarded them to the principal of the company, advised him of the purport and generally got no answer. So the answer is yes, they knew.

Ms. Bryden: Apparently they deliberately decided not to comply with what was necessary in order to maintain their registration, possibly because they felt the corporation might be inactive or of that sort, but that was their decision.

Mr. Chairman: I think Mr. Steadman said it was a disagreement between the shareholders that created the situation.

Mr. Steadman: That arose subsequently. I think it was around 1981 or 1982 that I first heard of the transfer of the interest in the company.

Mr. Chairman: At the risk of creating a semantic problem, if you look at the compendium, section 7, it says "a statement." It does not say "a written statement." I would suggest that is broad enough to include a statement verbally from members of the various governmental branches.

Ms. Fish: I simply wanted to point out the Ministry of Revenue has indicated, in that case in writing, that the necessary taxes have been paid and that the representatives are here today, including the parliamentary assistant, to indicate there are no objections from the other ministries and branches of government directly involved. Indeed, representatives are here in person from some of the branches that Ms. Bryden has queried. Obviously there were some difficulties in the filings or this applicant would not be before us today because the necessary certificates would not have been lifted.

The issue that should be confronted is whether there has been a discharge of taxes paid, information filed and no further objection on the part of any of the regulatory arms of government to permitting this company to be revived. That, I think, is clearly the case. That is the advice that is before the committee in a combination of written form and personal attendance upon the committee by representatives of the respective ministries. I would hope that would be sufficient under the circumstances for committee members to agree to this revival.

Mr. Chairman: I think we have had a fairly broad discussion on this. You can register your dissatisfaction by voting against this. I understand what you are saying.

Ms. Bryden: I have further comments I wish to make. I am very pleased with what the clerk has provided us with for this meeting. It is the first time we have got a great deal of information about the bills in the form of compendium information. We also have before us the guidelines and the rules as to how people apply for private bills and what they have to go through.

This is helpful, and actually we got it a couple of days before the meeting, which was also helpful.

Mr. Chairman: We are trying.

Ms. Bryden: Yes. However, this particular bill came to us without a written indication from the companies branch that it had been consulted, without the Ministry of Revenue's statement and without any sort of brief description of the nature of the business and of the assets that we are restoring to the company.

It is a great privilege for the Legislature to revive a company because it is special legislation that affects only one company and takes up a considerable amount of time, especially because there seems to be a growing number of revivals coming to us.

I hope the new methods that are being devised for notifying people of when they are dissolved will start to work better than they did in the past, but the fact is that officials of this company appeared to know they had violated the Corporations Information Act and they undoubtedly knew that meant they would lose their registration, and yet they persisted in that conduct. Now, 10 years after, they want the opportunity to be reinstated and to go on operating whatever business is there.

I feel this committee is being abused by being asked to do this with as little information as we have. Therefore, I would like to move that the bill be put down for the time being. It can be brought up again after we have received the information that I think we need as to the nature of the company and the nature of the assets, a statement from the companies branch in writing and a statement from the Ministry of Revenue as to its role and that there is no objection.

I think this should be the practice for all bills that come before us, particularly for revival bills. I would like to move that we set it down until we get at least that additional information.

Mr. Chairman: Ms. Bryden, I interpret your resolution as a motion for deferral, which is not debatable. If it is more than that, you are going to have to write it out. You have said an awful lot. We know what your reasons for the deferral are. I take it as a motion for deferral. Since it is nondebatable, we will vote on it now.

Those in favour of the deferral proposed by Ms. Bryden, signify. Those opposed?

Deferral is lost.

I will now call the question on the bill itself. Do you wish a recorded vote on this, Ms. Bryden?

Ms. Bryden: Yes.

Mr. Chairman: Shall sections 1 to 3, inclusive, of Bill Pr2 carry? Those in favour? Opposed?

Sections 1 to 3, inclusive agreed to.

Mr. Chairman: Shall the preamble carry? Same vote, Ms. Bryden.

Preamble agreed to.

Mr. Chairman: Shall the title carry?

Title agreed to.

Mr. Chairman: Shall the bill carry?

Motion agreed to.

Bill Pr2 ordered to be reported.

Mr. Chairman: Thank you very much. As is often the case, I had predicted this would be shorter. It never happens.

I do not mean that as a criticism, Ms. Bryden. I hope you will not take it that way. It is obvious that members of this committee are required, duty-bound in fact, to participate, and if they have objections to bring them forward.

We will now move on to Bill Pr11.

QUETICO FOUNDATION ACT

Consideration of Bill Pr11, An Act to revive The Quetico Foundation.

Ms. Bryden: Mr. Chairman, on a point of procedure: Since you have changed the agenda without giving us notice, may I have three minutes to notify my colleague, who is upstairs at another committee, that he should come down to listen to this? He is a northwestern Ontario person and I know he wanted to hear this, but I did not have an opportunity to notify him about the change of agenda until now. Could we have a three-minute recess?

Mr. Chairman: I think that is fair.

The committee recessed at 10:38 a.m.

1045

Mr. Chairman: We are dealing with Bill Pr11, as was indicated. Mr. Bernier, would you introduce the proponents of this bill?

Mr. Bernier: This is Bill Pr11, An Act to revive The Quetico Foundation. I would like to introduce to the members Catharine Wild, a solicitor for Blake, Cassels and Graydon, and Jack Bankes, the vice-chairman of the Quetico Foundation.

I am sure the members will be interested to know that Pat Reid, the former member of the Ontario Legislature, was recently elected chairman of this foundation. I just threw that in for my colleagues across the way. I am sure they will be interested in supporting this very interesting bill.

I will ask Mr. Bankes to give further clarification on the foundation. It has been around for a number of years. It was established during the controversy over the Quetico Provincial Park development in northwestern Ontario. They have done some great work with respect to protection of the natural resources and the wild lands of northwestern Ontario. Some very interesting people form the foundation, and they have been very highly recognized in the conservation and naturalist fields. They have done some great work.

The actual problem started about 1979 when, through an oversight--and Mr. Bankes may want to elaborate further--the papers for the corporation were not properly filed or were neglected to be filed, and the corporations branch put them into an insolvent state.

Basically, that is the background. I will ask Mr. Bankes to clarify what the foundation is all about and what the problem was and how it arose.

Mr. Chairman: I would not for one minute wish to cut you off, but there was a fairly full compendium filed with the bill. Perhaps we could leave it to questions from the committee members. If there are none, sometimes silence is golden.

Mr. Foulds: I come from northwestern Ontario and I must confess that I really have not heard of the activities of the Quetico Foundation and its participation. Maybe a brief outline on that would be very useful.

Mr. Bankes: It has been in existence for a number of years and it is comprised of 15 or 20 people. They raise funds and publish publications relating to Quetico Provincial Park. This past year, we built a library in the park, which we have turned over to the government. We are operating that library again this year at our expense. Really, our interests are to preserve the park for the benefit of the people who are using it.

Mr. Foulds: You act merely as an advisory body to the ministry and do private fund-raising to support the use of the park. Is that it?

Mr. Bankes: That is right.

Mr. Foulds: You would not have any authority over designating areas of the park for particular uses.

Mr. Bankes: None whatsoever. We have no authority at all.

Mr. Foulds: Of the 15 or 20 people, what kind of cross-section of people belong?

Mr. Bankes: Pat Reid was mentioned. You may know Dr. Omand Solandt.

Mr. Foulds: Yes.

Mr. Bankes: Larry Bonnycastle, who heads up Canadian Corporate Management. Jack Ridley ran it for many years. He was an executive of Ames, the investment house. We have representatives from Atikokan on it. We have a variety of people on it.

Mr. Foulds: Do you have some of the tourist outfitters?

Mr. Bankes: None of them belong, but we consult with them. We

provide them with a waterproof map. I think it is the only quality waterproof map of the park, as a matter of fact. We print and publish that and sell it through the government offices up there. We have 15 or 20 people who serve, take their time. We have quite a cross-section of people.

1050

Mr. Foulds: Are there people from the northwestern Ontario area as well as from the Toronto area?

Mr. Bankes: Yes, we try to have people on from the area, Pat Reid being a member in one of them, for example.

Mr. Foulds: He is an ex-patriot now.

Mr. Bankes: He is still one of us.

Mr. Foulds: Sure.

Mr. Bankes: It is our objective to preserve the park as a wilderness park for the benefit of the people who are using it.

Mr. Foulds: Can you elaborate a little bit about why and how the letters patent lapsed?

Mr. Bankes: I wish I could. That is a mystery. We had a lawyer from Blake, Cassels and Graydon look through our affairs. He discovered this lapse.

Mr. Foulds: You did not realize this.

Mr. Bankes: We did not realize it. We were not aware of it or never saw a notice that we were in a state of lapse, so it came as quite a surprise and shock to us.

Mr. Chairman: Apparently they became aware of it, according the compendium, on August 6, 1986, as a result of an application for supplementary letters patent. That is how they found out about it.

Mr. Foulds: Can I ask you how you are elected or how you are appointed? How does the organization get its genesis?

Mr. Bankes: We seek people who are interested in the wellbeing of the parklands of Ontario. We invite them to come to join the foundation as trustees. This is something we do. If people come and put their names forward, we are interested in talking to them. If they have the same interest that we have, we are glad to have them join us.

Mr. Foulds: How does someone become aware you exist?

Mr. Bankes: We do not publicize ourselves. We are a low-key organization. We go out and contact people who we think might help us or who might wish to make a contribution to our cause. We do not have any axe to grind, unless we see action being taken that we think is contrary to the interests of people who are going to use the parks.

Mr. Foulds: And that would be action either by the ministry or by private industry.

Mr. Bankes: Or it could be the federal government. For example, two or three years ago, they were going to close down a couple of the entry points to the park. We heard from counterparts in the United States and we talked to the federal government about it and expressed our views, what we thought was in the best interest of the park.

Mr. Haggerty: I just wanted to add a few comments, and perhaps the Mr. Bernier can assist me. I remember the lengthy debates in the Legislature back in the mid-1960s. If it had not been for a group of people who showed some interest in Quetico Park, we would have had a massive takeover by the lumbering industry which would have almost wiped it out.

I think that is how this foundation got started. These people were involved in the preservation of that land for parks, waterfowl, water life and animal life; you name it. They have done an excellent job up there. It is too bad they have to come here and have a bill before us today. Perhaps the Minister of Natural Resources (Mr. Kerrio) should be looking at that committee being established for the life of the park so that there are some other persons out there who can protect and watch the development within Quetico Park. You are doing a good job.

Mr. Chairman: Why do we not revive them first and then we will address that issue. At the moment, we have to breathe life into them.

Ms. Bryden: It seems rather ironic that we have two reviving bills before us this morning, both of which related to corporations or groups that lapsed in 1979. There must have been something about that year where they were requiring new information forms of that sort.

I must say that, along with my colleague, while I have certainly heard of Quetico Park and understand it is a very fine place to visit, I did not know about the Quetico Foundation, how it was set up, to whom it reports or exactly what its objects were. Do you issue an annual report to the public?

Mr. Bankes: We have an audit report we do not circulate widely. It is available to anybody who wants to see it.

Ms. Bryden: Do you submit that to the Ministry of Natural Resources or to whatever ministry is responsible for the park?

Mr. Bankes: I cannot answer that. I do not know.

Ms. Bryden: As far as people finding out about activities you assist in promoting is concerned, canoe trips and places for people to get outfitted and that sort of thing, do you provide that sort of information?

Mr. Bankes: No. That is not our role. We have a number of publications available at a price to people who are going to use the park. For example, we provide at a price a map of the routes through the park people can use. It is very valuable to canoeists. There are books on the ecology, the mineralogy, the fish of the park. They are available at a price. This is something we think is very important because we think it is an important part of Canada.

Ms. Bryden: Certainly your books sound like a very important contribution to our knowledge of our flora and fauna and geology. Where are they available?

Mr. Bankes: Through the foundation office, or at the University of Toronto Press, or through the government offices up at the park.

Ms. Bryden: Where is the foundation office?

Mr. Bankes: At Adelaide Street and University Avenue.

Ms. Bryden: So it operates mainly out of Toronto. Are most of your trustees located in Toronto?

Mr. Bankes: Yes.

Ms. Bryden: I notice Clifford Sifton was one of your original trustees.

Mr. Bankes: That is right. We have his son and grandson still serving on our board; they are very important trustees, too.

Ms. Bryden: You have never appointed anybody from northwestern Ontario. Or are there some people from there as well?

Mr. Bankes: Pat Reid. Is he from northwestern Ontario?

Mr. Foulds: He lives in Toronto now.

Mr. Haggerty: How did you know?

Mr. Chairman: Perhaps that could be taken under advisement.

Ms. Bryden: In effect, you raise your money, you have your financial statement, you spend the money on worthy projects and you promote the use of the park and the preservation of the park, which I think are all very laudable objects. But are you answerable to anybody as to how you carry out your objectives? Is there any accounting through a ministry of the crown as to whether--

Mr. Bankes: No.

Ms. Bryden: You are not a crown corporation?

Mr. Bankes: No.

Ms. Bryden: Do you have any sort of assessment by the people who use your services as to what they want and whether they have additional ideas you might carry out? Is there any input from the users of the park?

Mr. Bankes: Yes. We seek input from the people at Atikokan and from people throughout the park. We are in regular contact with them and co-operate with them. We like to co-operate with other people or organizations with an interest in the parks of this province. We work with them; we are in touch with the park people quite regularly. We are working quite regularly with them on this research library we established up there.

Ms. Bryden: Have you been involved in the controversies about whether part of the park should be given over to logging or whether it should be changed from a more or less wilderness park into a park with more builtup facilities?

Mr. Pankes: We have in the past, certainly. As Mr. Haggerty pointed out, that is one of the reasons this was founded. We took a very active interest when the logging interests were involved in Quetico Provincial Park.

Ms. Bryden: How do feel about logging in this park?

Mr. Chairman: Ms. Bryden, I do not want to get too far afield, as it were. We have a large number of people from Victoria-Haliburton waiting to get on. It has been very interesting.

1100

Ms. Bryden: I feel that if there had been an annual report and a financial statement, we would know who are your donors and where your money comes from. I am sure it was all well handled.

Mr. Bankes: We raise it from the public at large and private individuals. The trustees themselves are all obliged to make a contribution each year, and we get appropriations. Wherever we have friends, we see whether they will put in a few dollars to help us operate for another year.

Mr. Chairman: On that statement, we are going to try to revive the friends in this noble purpose. I do not mean to cut you off, Ms. Bryden, but we are getting a little far afield.

Ms. Bryden: May I ask, Mr. Offer, is it essential that a group applying for revival present its annual reports for the last year or two?

Mr. Offer: No, and the government has no objection to this revival.

Ms. Bryden: Has the companies branch been consulted on this? Do they have any comments?

Mr. Offer: The companies branch has been consulted and it has no objection to this revival.

Ms. Bryden: I guess there are no corporation taxes involved since it is a nonprofit corporation. Is that correct?

Mr. Offer: That is correct, and the companies branch has no objection.

Mr. Chairman: Okay?

Ms. Bryden: I am not finished, Mr. Chairman. I think we should consider adding to our compendium a financial statement from groups that come before us, particularly for revival, so we will have a more precise idea as to what they do and where their money comes from. I am not saying we are going to stand down this bill for that, but I think in the future we should have that, as we have asked for written reports from the companies branch and the corporations tax branch to be supplied to us.

I have just one final question and this may be a toughie. Maybe Mr. Bernier can help us. Why is Quetico Provincial Park not operated by a government commission such as the Niagara Parks Commission?

Mr. Chairman: Again, Ms. Bryden, I am sorry. The purpose of this bill is to revive the corporation, and we are getting too far afield. I am

sorry, but I do not consider that to be a relevant question. Mr. Bernier's answer may be far longer than we expect and we will be here for ever.

Ms. Bryden: Would he care to say something?

Mr. Bernier: I do not think it would be appropriate at this time. We are reviving the foundation. I think what the committee would like to do is to laud the foundation for the great work it has done in the past and the great work I know it will do in the future. It is a foundation that is geared to protect the wilderness and all the aspects of Quetico park. It is great and it should be commended for its work.

Mr. Chairman: Thank you, Mr. Bernier.

Ms. Bryden: I think it does valuable work but I do think it should be accountable to some body of the public as well in a more direct way.

Mr. Chairman: Mr. Hennessy, very briefly.

Mr. Hennessy: Very briefly, I move passage of the bill.

Mr. Chairman: Before that, Mr. Offer, you had something.

Mr. Offer: I just wanted to inform you, Mr. Chairman, and the committee that our understanding from the solicitor for the Quetico Foundation is that it will undertake to provide the information pursuant to the Corporations Information Act, within 10 days from today, I would imagine.

Mr. Chairman: Is that correct?

Ms. Wild: That is correct.

Mr. Chairman: All right, we have that undertaking. I am going to call the bill.

Sections 1 to 3, inclusive, agreed to.

Mr. Chairman: Does anybody wish a recorded vote on this, by the way?
No.

Preamble agreed to.

Title agreed to.

Bill ordered to be reported.

Mr. Chairman: Thank you very much. It was very interesting hearing the history. I am sure you will have a lot more people attending that park as a result of that information.

We will go to Bill Pr39. Ms. Fish.

Ms. Fish: The representatives of the foundation wish to ask that the usual motion be made to waive the fees. I wonder whether a member of the committee would oblige.

Mr. Chairman: Are you going to remain with us, Mr. Foulds?

Mr. Foulds: No.

Mr. Chairman: Very nice to have you here.

There is a motion that the fees be waived in this matter. Is that agreeable to the committee?

Fee-waiving motion agreed to.

CANADIAN OPERA COMPANY ACT

Consideration of Bill Pr39, An Act respecting Candian Opera Company.

Mr. Chairman: Next is Bill Pr39, An Act respecting Canadian Opera Company.

Ms. Fish: We have with us today Ms. Dolores Morrell, a solicitor with the city of Toronto, appearing in support with John Carson, solicitor for the Canadian Opera Company. I hope the members will find the request a fairly straightforward, self-explanatory one. Suffice it to say that the requirement of specific support and approval from both the city of Toronto and Metropolitan Toronto has been obtained.

Mr. Chairman: You have a fairly extensive compendium before you, and unless there are some specific questions of the applicants, I propose that we move along.

Ms. Bryden: The last item on the compendium refers to a table at the back relating to the tax exemptions given in a 1985 Metropolitan Toronto report on tax exemption. I do not understand that table, because it shows bills enacted in the first group and then support by resolution of the local council. It does not sound as though a bill was ever enacted. This is supposed to be a list of exemptions by private bills. The other three parts of the table do not indicate that they were enacted. There is only one section where it says "request denied." Could you explain that table, or do you have any more information on it?

Mr. Chairman: This is page 10 of the attached compendium. Can we get an answer from whomever can give the answer?

Mr. Carson: That table is somewhat historic now, because those enactments on the first portion at the top of the page were under the previous policies of the municipalities. Subsequent to that, the municipality of Metropolitan Toronto, at the instance of the Ministry of Municipal Affairs, passed policy criteria, so the only use of that top section, the bills enacted, was simply for the wording of the bill so that it would be wording which was familiar to the House.

Ms. Bryden: But all the exemptions, except the ones where the requests were denied, were granted. All the exemptions that are listed on that table were granted through some legislation.

Mr. Carson: At the time of the utilization of that page, we were only referring to the bills enacted. I did not delete the balance of the page. Some of them became the subject of great debate. Harold and Grace Baker triggered the Kruger report in Metropolitan Toronto. Enoch Turner was passed. children's oncology care passed, I understand, the Pauline McGibbon Cultural Centre and so on. I did not trace the subsequent history of the other applications which were pending.

Mr. Chairman: Two of them were actually passed by this committee, I believe.

Ms. Bryden: The reason I asked is that, looking first at the table, you got the impression that in 1984 there was \$1.7 million given out in tax exemptions by private bill, but if you drop out the ones where it is pending or which were denied, it is not as much. However, it is still a substantial amount and there are some large sums there, as much as \$472,000 given to one very large organization.

I could not let a bill of this sort go through without asking the representative of the Ministry of Municipal Affairs when we are going to get general provincial legislation that will set out the guidelines, instead of these very worthwhile organizations having to come to us and take up their time and their money, as well as our time, to get an individual tax exemption. It seems to me that we spend a great deal of time on this and that there is a pattern in the kind of groups that are granted the tax exemption.

The thing we have to remember is that we can afford to be generous because it is not our money we are spending. It is the municipalities' money we are spending. If these people get a tax exemption, the other taxpayers of the municipality then have to make up the difference. The province puts out nothing.

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It is also something that goes on for ever, until the organization winds up presumably, so it does not have to be voted every year. It is a drain on the taxpayers of each municipality affected. We really should be studying, as previous governments have told us they were, the question of provincial policy for cultural, educational and charitable organizations and tax exemptions or tax grants.

I would certainly prefer grants that would have to be voted every year, so the taxpayers know what they are paying for and so the organizations would have to recognize in some way that they are getting a grant from the municipality and not an exemption from the province that goes on for ever.

Could you answer that, Mr. Offer, as to whether any studies are being made of changing the system?

Mr. Chairman: Just before Mr. Offer does answer, if you look at subsection 1(2), they can attach conditions, so I imagine if they wish to attach them for a limited period of time they could do so. Would that be accurate, that it is not a for ever situation?

Ms. Bryden: But it does not come up every year, to revise the conditions.

Ms. Fish: I wonder if Ms. Bryden would permit me to note one or two things with respect to her request. It is enabling legislation. The decision must be made by the local council. It is not a provincial decision to exempt; it simply enables the local council to take that decision. As you pointed out a moment ago, the decision may have conditions attached, which conditions may include a very short time period, requiring renewal. The decision on the extent of the exemption and its duration rests with the local council. That is the purpose of the enabling legislation.

Mr. Offer: First, to address Ms. Bryden's specific question: Of

course, there is and has been for some time ongoing discussion and investigation of some general legislation with respect to this, so that the types and numbers of applications for tax exemptions might be decreased. I can only tell the members of the committee that that research and the impact of such general legislation is still being studied. At this particular time, of course, we do not have general legislation but it is an ongoing matter.

With respect to the government response, I would like to reiterate once more what I think Ms. Fish was indicating, that this committee does not give the tax exemptions. Rather, it just enables the local body, if it wishes, to pass a bylaw allowing the tax exemption. That has always been the case, as far as I can recall, with respect to this committee.

This particular application falls within the usual criteria for approval: it is a charitable organization; the property in question is owned and operated by the applicant; the particular legislation enables local council to pass a bylaw; we do have approval from municipal council in support of this.

Now this particular application has an added condition which has been met, and that has been a request by Metro Toronto council that it too should give its consent and approval to applications of this nature. Not only do we have the four criteria, but we have this fifth which also has been met. For those reasons, we recommend that the bill not be not be opposed.

Mr. Chairman: "Not be not be opposed." Those are two negatives. There is no opposition.

Mr. Offer: For the record and for the chairman, "The bill not be opposed."

Ms. Bryden: I am not opposing this grant to the Canadian Opera Company, but I would like to see some of these applications taken off our table and given directly to the municipalities, under guidelines.

Mr. Chairman: You are trying to put us out of business here.

Mr. Barlow: I would like to speak for a moment on that. I served on this committee back in 1981 and 1982 and I recall Ms. Bryden making that same speech. I believe I and others made the same speech. It is unfortunate that we have organizations such as the Canadian Opera Company and others that come before this committee and each time we take the time of the committee saying they should not really have to come before this committee, that there should be general legislation.

We have reported that in the past and recommendation has been made in the past that there should be general enabling legislation. Why should this committee sit down and go through this? We are certainly not objecting to this at all. I know Ms. Bryden is not objecting, because I have heard her speech many times in the past. I think it is unfortunate that we have to go through this each time one of these applications come forward.

I would also not be not opposed to this, or whatever the term was. I would not be opposed. I would support it, as a matter of fact. It is easier to do so.

Mr. Chairman: Seeing as how we appear to have such favourable comment, Mr. Hennessy is probably going to move that we call the bill.

Mr. Haggerty: That is right, move the bill. People, at least, know what they are talking about.

Mr. Barlow: I have one more question.

Mr. Chairman: It is always dangerous to ask that one more question.

Mr. Barlow: I know we are not at section 3 yet, but do we have authority to make a bill like this retroactive?

Mr. Chairman: That sort of twigged me too. It is in the regulations that the standing orders do not allow us to have this retroactivity, but we can provide that.

Sections 1 to 6, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill ordered to be reported.

Ms. Fish: Before we proceed, I would ask that the usual motion to waive fees be made in consideration of this nonprofit organization.

Mr. Barlow moves that the committee recommend that the fees, less the actual cost of printing, be remitted on Pr39, An Act respecting Canadian Opera Company.

Fee-waiving motion agreed to.

Mr. Chairman: Thank you very much for coming forward. We wish the Canadian Opera Company a successful season.

TOWN OF LINDSAY ACT

Consideration of Bill Pr20, An Act respecting the Town of Lindsay.

Mr. Chairman: Mr. Miller, you are going to introduce the applicants. For the benefit of the people who are here with reference to this bill, this committee sits until 12 noon. That gives us some 45 minutes, roughly, for dealing with it. I understand there are people here who are in favour of it and some people who wish to speak against it.

In the interest of making certain that we complete this matter today, rather than being required to bring you all back to beautiful downtown Toronto, I wonder whether we might have one speaker in favour and one speaker opposed. Then we can have questions of those people with reference to their reasons for that.

Mr. G. I. Miller: May I just indicate that both Bud Gates, the clerk-treasurer of the town, and Ron Cork, the solicitor for the town of Lindsay, are here. Perhaps they could come forward, and then those opposing, if there is anyone opposing. I have not met them, but--Mrs. Cathie Raddatz. I do not know whether she is here. She is not here. Is anybody here who is opposing?

Mr. Chairman: Within the compendium information, we have a letter from that lady, and I would ask that it be drawn to the attention of the committee, as well as a letter from, I believe, Mrs. Anne Flynn. Is Mrs. Flynn here? Perhaps I could just inquire who is here to speak in opposition to the matter.

Mrs. Parsons: I am.

Mr. Chairman: Your name is?

Mrs. Parsons: Olive Parsons.

Mr. Chairman: Would you like to come forward please, Mrs. Parsons? Is Mr. Cork before us? You can sit down. Actually, you have to sit down because we want to record your thoughts for posterity in Hansard.

Perhaps for the purposes of the record you could each identify yourself and then we will have Mr. Miller. Are you going to introduce it? I think there is a pretty full compendium as to what took place and what has been requested.

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Mr. G. I. Miller: I would like to bring to your attention Bill Pr20 regarding the town of Lindsay. The people here are the ones who represent the town and the ones opposing the bill. We look forward to the presentations.

I am making the presentation on behalf of the Minister of Tourism and Recreation (Mr. Eakins) who is not able to represent the bill. As the member for Haldimand-Norfolk and a friend of John Eakins, I am very pleased to be able to bring it to the Legislature and make it available now.

Mr. Chairman: I wonder if I could inquire of committee members if they have all read the compendium and if there is any need for a lengthy overview to be given to us of what took place. If not, we will start with questions.

Mr. Hennessy: The trust of William Carlisle and Alfred Johnson: I might ask the parliamentary assistant whether they are the two people who passed away and left the land to the city to be used for that purpose specifically.

Mr. Offer: Yes, there is a trust.

Mr. Cork: That is not entirely correct. It was not done by way of a will. It was done by way of a clause in a deed. They deeded the land in 1925, though it was not registered until 1946. In the deed to the municipality, it indicated the lands should be used as a public park and horticultural garden for the citizens of the town of Lindsay.

Mr. Chairman: Then over the years a series of conveyances were made for other purposes.

Mr. Cork: It has in fact been used for a number of civic community purposes over the years, yes.

Mr. Hennessy: Did they specify that themselves, that when they passed away the land would be used for recreational purposes?

Mr. Cork: It does not say when they passed away. It says that as a condition attached to the conveyances--

Mr. Hennessy: Does anybody think they are not going to pass away?

Mr. Cork: They are dead.

Mr. Chairman: Mr. Hennessy, if you look at page 2 of the compendium, the habendum clause is specifically spelled out: "To be held and maintained by the grantee as a public park and horticultural garden for the use of the citizens of the town of Lindsay subject, however, to the supervision and control of the grantee." That was the clause that was contained in the deed and that is the reason private legislation is being sought.

Mr. Offer, are there any comments from any government ministries with reference to this bill?

Mr. Offer: This matter has been looked at by all the ministries involved and there are no objections. We do have and there shall be an amendment. My comments with respect to nonobjection are subject to an amendment, which I understand is going to be moved by Mr. Haggerty and with which all concerned are in agreement, whereby the words "lease or convey" in the preamble will be deleted. This will make it impossible for the municipality to divest itself of the property. Rather, it shall maintain and use the property for the purposes which we are here today to discuss.

Ms. Bryden: First, do we just have the two spokesmen?

Mr. Chairman: Yes.

Ms. Bryden: Could we hear from them? I have several questions. If they do not answer them, perhaps--

Mr. Chairman: Perhaps we will first hear from the person opposed, since she is also here.

Mrs. Parsons: As president of the Lindsay Community Lawn Bowling Club, I am here on its behalf with regard to changing the will of William Carlisle and Alfred Johnson. These two gentlemen were bowlers and they donated the piece of property to the club over 65 years ago so that lawn bowling would always have a home. It was after this fact that the balance of the land was turned over to the town of Lindsay to be used as a horticultural park. Our property is located at the east end of the park and is included in the plan of the Victoria County Board of Education for constructing a track and athletic field.

Over the 65 years, the club has been updated and bowling has taken place ever since. Our bowlers are senior citizens, as is 52 per cent of the voting public in Lindsay. It is the only outdoor sport many seniors can take part in. The club is centrally located and handy for those without cars. The members use this facility year-round for cards, etc. Our membership varies, but stays around 100.

A dangerous precedent is being set if this change is allowed to happen. Why would anyone leave anything to the town, knowing full well it could have the will changed to suit itself regardless of the donor's wishes? In fact, the making of a will becomes a farce.

Our town of 15,000 is not without a regulation athletic track. It just

happens to be across town at the other high school. This high school in this park has easy access to a track in the Lindsay fairgrounds, a half block away, something they have been using for many years.

This was one of the very first parks in Lindsay and the only one in that area, and serves half a dozen apartment houses besides the many private homes around where there are children who play in this park. Not only lawn bowlers but a great many citizens, who have telephoned their support to us, are outraged at this proposed change. We ask you to reconsider these facts and vote against a changing of the will.

Mr. Chairman: Just to correct it: We have heard it is not the will, it is a covenant in a deed.

Mrs. Parsons: Yes.

Mr. Chairman: I just want to clarify for myself and perhaps for the committee. This is not affecting your lawn bowling directly?

Mrs. Parsons: Yes. They want to take a section of the bowling green, so that it would be no good to us at all, in order to put in the track.

Mr. Hennessy: If they are taking something, are they going to replace it?

Mrs. Parsons: They have not come up with anything to say they would replace it. They want to give us another section in the park, but these are senior citizens and they cannot afford to go into debt over what they want, to build the green and the clubhouse.

Mr. Hennessy: Why I asked the question is that if they are going to move people, they should at least provide accommodations comparable to what they have at the present time.

Mrs. Parsons: Yes, that is what we are asking.

Mr. Hennessy: Then you would not have any objections. I cannot see why they would not do that.

Mrs. Parsons: That is right. We would not have. If they did that, we would have no objections at all.

Mr. Chairman: I wonder, as well, if we could just clarify. We have a letter from Anne Flynn and Cathie Raddatz. Is their objection for the same reason?

Mrs. Parsons: Pretty much. They are neighbours; they are on Fair Avenue. Their homes back on to this park where these children play. Last night, for instance, that park was just full with about eight different groups of children taking part in different types of games, besides the lawn bowlers.

Mr. Chairman: But are Anne Flynn and Cathie Raddatz lawn bowlers?

Mrs. Parsons: No, they are not. They are just neighbours with children who live around there.

Mr. Chairman: We have some members, but before we go to them I think we will hear from Mr. Cork with regard to what appears to be the thrust of the objection.

Mr. Cork: If I could speak to a few of things Mrs. Parsons has raised, the land occupied by the Lindsay Lawn Bowling Club is part of the land that was originally deeded to the town. I am not aware, having searched the title and having looked at town records, of any deed or any other conveyance by Mr. Carlisle and Mr. Johnson of any part of that land to the lawn bowling club.

I am aware the club has been there for many years. In fact, they currently occupy it by right of a lease from the town to the club that had a term of 20 years and expires on July 1 of this year. So I believe the lawn bowling club is in the same situation as the applicants for this bill.

In my respectful opinion, the lawn bowling club is not a public park and horticultural garden within the meaning of the condition attached to the trustee and this bill would provide some legal authority for the lawn bowling club to continue to use part of those lands for a purpose that in my opinion does not fall within the strict meaning of the words "public park and horticultural garden."

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Second, I think Mrs. Parsons will acknowledge that generally there has been support from the lawn bowling club for this application. There have been negotiations I am familiar with that have gone on for at least the last 18 months in an effort to accommodate the lawn bowling club and its members in another area of the town and in another park, but park land that was acquired by the municipality for good and valuable consideration.

A distinction that must be understood is that if park land is acquired nominally or by gift, then the council or the parks board, if there is one, does not of its right have the authority to change that park to recreational purposes. If it was acquired for nominal consideration or by gift, there seems to be some restriction on the ability to do that.

The purpose of this bill is to enable the municipality to enter into an arrangement, a joint venture with the county board of education, to use part of the park for a multipurpose recreation field. As far as I am aware, it is not the intention of the municipality to leave the lawn bowling club without accommodation, but that is something that has to be negotiated. Facilities will have to be moved and accommodated elsewhere, though it is possible that even with this multipurpose field the club may remain in its present location.

The bottom line is that I think the club is in the same unfortunate position as the applicant. I think its use with respect to these lands contravenes this trust as much as does a multipurpose athletic field. It would be my hope that this will legitimize the use, if it is to continue there, for not only the lawn bowling club but also the park.

I have a couple of other things. Mrs. Parsons makes a valid point, one that I am sensitive to, that benefactors would be cautious to make bequests to municipalities if they felt those bequests and the terms of the bequests would be varied at will.

Speaking personally as a ratepayer of that municipality and with four children who live within two blocks of that park and who attend school in that area, my position on this matter throughout has been that I am quite persuaded and convinced of the need for this facility. There is a senior elementary school there. There is a secondary school there. The senior elementary school

accommodates all the grade 7 and 8 children in the town of Lindsay. The other school accommodates 40 per cent of the secondary school population for the county of Victoria. Those two schools combined have a population of about 1,800 children. They have no suitable multipurpose field or recreational facility anywhere near them.

Mrs. Parsons makes reference to the fairgrounds. The fairground is within a very short distance of the schools, but it is a fairground. It has a racetrack that is not even a good racetrack for horses and it certainly is not a good track for children to be participating in athletic activities. It has an infield that has been used in past years by the secondary school for football and rugger and other athletic activities of that sort but at great risk to the athletes because in September it is used for a fall fair. It is dug up by tractors and horses and everything else. Those ruts and dangers remain when the children begin to use it in the fall following that. In addition, it is a fairground. It is desired by the fairground that it continue to be a fairground. It does not seem possible and feasible to try to convert it to the type of use that is contemplated.

This municipality is here today in the person of its reeve; a councillor, Mrs. Skipworth; and its chief administrative officer. The municipality is also represented here today by another elected body and that is the county board of education. The past chairman, Mrs. Gardiner, is here and is prepared to speak to the matter. Finally, it is represented by the Lindsay Board of Parks Management, which is a corporate entity unto itself.

We are very proud of the parks in this town. I have some brochures here that illustrate our pride. We are very interested in maintaining those parks. We would like to see this particular park used a little more actively than passively, as it has been in the past. It is not the intention of the municipality, the county board of education or the parks board to ignore the impact it will have or may have on abutting land owners. As far as I am aware, there is only one abutting land owner who objects to this in terms of filing an objection with this committee. That is Mrs. Raddatz who is not here today. Mrs. Flynn is not a resident of Fair Avenue. She lives some half a mile away from the present park and the location.

I think there has been significant public debate about the wisdom of this change. There has been significant public negotiation and discussion about the way in which this field might be accommodated within the confines of the park, whether it should run east-west, north-south or at some angle. I think it is a credit to the municipality that in this case at least, there is unanimity among the two major elected municipal bodies, the county board of education and the municipal council. This joint project is supported by those in the interests not only of the children of this community but also of all the citizens of the town.

It is critical to point out as a footnote that this park will not become less public. It will remain available to the citizens of the entire town of Lindsay. It will just be able to be used in a broader manner and for more active purposes than it has been in the past.

Mr. Chairman: Before we go to questions, I am going to ask Mr. Offer to relate to standing order 78, which deals with estate bills, and to file with the committee approval from the commissioners of estate bills, as is required by that standing order that it is approved by them. That does not do anything other than comply with the standing order.

Ms. Bryden: Is my name on the list?

Mr. Chairman: Yes, it is. In fact, you are first, Ms. Bryden, as soon as Mr. Offer has said yes to what I have just put on the record.

Mr. Offer: I apologize to the members for neglecting to indicate this. When we are dealing with an estate bill, under standing order 78 all matters, prior to us or yourselves deliberating, must be sent to the commissioners of estate bills. This matter was sent to the commissioners of estate bills. I understand from the clerk that you have all received a copy of their report dated February 3 which reads in part:

"Presuming the allegations contained in the preamble to the said bill to be proven to the satisfaction of the House, and on the understanding that when the bill is before the private bills committee all persons who may be affected by the bill and who wish to appear before the committee to make known any objections thereto are given an opportunity to make known their objections as and when required, we"--meaning the commissioners of the estate bills--"are of the opinion that it is reasonable for the said bill to pass."

I apologize for neglecting to read that. It was pursuant to the standing orders and I think it is important that all members of the committee be given that information. It is not only the ministries that have no objection, but pursuant to the standing orders the commissioners of estate bills also are of the opinion that as long as certain conditions are met it is reasonable for the bill to pass.

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Ms. Bryden: I have a number of questions. I noticed that the legal letter, which occupies a great deal of the compendium from the legal firm giving you the opinion on whether the trust would be violated or whether it would allow this sort of leasing of a piece of land for an athletic field.

The legal opinion is from A. Ronald Cork of the firm of Warner, Cork and Siegel. On page 1, paragraph 2, he said, "There has been significant public opposition by many ratepayers to the proposal." I would just like, perhaps from Mrs. Parsons, a little further information on how significant that public opposition is and how many people have been involved over what period opposing the alienation.

Mrs. Parsons: We have been negotiating with the town and the parks board and the board of education and just about anybody else for over four years trying to get a settlement of this. There have been many meetings and what not. We have a member who, way back when this was given, knew the gentlemen who gave this land. They gave the piece of property where our bowling club sits to the bowling club but they did not bother at that time to register it, I suppose, or whatever you do. That is how we got this piece.

The piece of land that is out in front is the piece of land that we lease from the town of Lindsay, the grass that is facing out on to the street. The actual piece of property where our greens and clubhouse are was actually given to them by these men. It was after that time that they turned around and gave the balance of that land to the town. We were there before that. If we get moved out of here, that will be the end of the bowling club. We have looked into it and it is \$150,000 to \$200,000 to put in the greens and a clubhouse. We just cannot do that, that is all.

Mr. McKessock: Supplementary, Mr. Chairman.

Mr. Chairman: I just want to clarify something first, Mr. McKessock. Mr. Cork, you told us that the property in question, the deed from the trustees of the town of Lindsay, incorporates all this land including the bowling. Is that a fact?

Mr. Cork: Yes, that is a fact. That is the way I read the deed and that is way I plot the description of the property in the deed.

Mr. Chairman: That is the metes and bounds description. It goes around the--

Mr. Cork: It goes around and includes the lawn bowling club.

Mr. Chairman: Will you allow a supplementary from Mr. McKessock, Ms. Bryden?

Ms. Bryden: Yes.

Mr. McKessock: That was my question. The property that was given previously is now attached to what was given later?

Mrs. Parsons: Yes.

Mr. McKessock: In the same deed.

Mrs. Parsons: Yes, the east side.

Mr. Cork: I do not know the manner in which it was given, Mr. McKessock. I do not dispute, Mrs. Parsons, that there was perhaps some wish that the lawn bowlers have the land. All I can say is that there is no registered instrument that reflects that because the lands that were given in 1925 to the town include all the lands occupied by the lawn bowling club.

Mr. Chairman: Just to clarify that, if it is not a registered instrument, it is fraudulent and void in terms of who gets it. They may have said, "Yes, you can have it for that purpose," but if it is not registered on title--that is what governs.

Ms. Bryden: Mr. Cork, in your legal opinion to the city, you concluded that the trust could not be set aside and other uses made of the land without provincial legislation setting it aside. Is that not true?

Mr. Cork: I basically said that was one of the alternatives that could be followed if those in charge felt they wished to go ahead with it. The other would be an application to vary the trust to the courts. My concern was that it was not my right to comment on the merits of the project, but that if a decision was taken to go ahead with the project, that the law be complied with. That is one of the--

Ms. Bryden: They have chosen this route of coming to the Legislature.

Mr. Cork: They have chosen this way. That is right.

Ms. Bryden: Is there suitable alternative space for this athletic track and--what do they call it?

Mr. Cork: Multipurpose--

Ms. Bryden: Multipurpose arena--at least, it would be a multipurpose area. Is there not alternative space? I think it was mentioned in one of the clippings, and I do not think it was the exhibition they were talking about, that space could be leased or bought from another party not within two blocks of the school.

Mr. Cork: I can say that Mrs. Gardiner, who is the past chairman of the board of education and the party most vitally interested in seeing this go ahead, and a committee of that board has looked extensively at the alternatives, including the possible alternative of another site. As far as they are aware and I am aware, there is no other site that is viable and within a viable distance of these two schools.

Ms. Bryden: I notice that one of the residents, Mrs. Raddatz, in her letter says it is the only green space left in the vicinity. Is there an alternative for the lovers of green space?

Mr. Cork: It is important to stress that this is not going to be used for other than green space. It is just that it is going to be used as an active park instead of as a passive park. We do not intend to put a motor vehicle course on it. We do not intend to convey it to be used by private enterprise. We do not intend to put bricks and mortar on it. We do intend it to remain as green space in the broad sense, but to be more actively used than previously. I have a little brochure that illustrates the town's parks including this one. There is a fair amount of green space within the town.

Mr. G. I. Miller: Time is running out and there is a question I would like to put: Is there any reason the bowling green cannot remain on the property? I think the dispute really comes down to that. These folks have put in a lot of work on this over the years, a lot of free effort. Is there a possibility the bowling green can remain there and the remainder of the land used for public purposes?

Mr. Cork: If the committee sees fit to recommend passage of this bill, I think the lawn bowling club could remain there. It would then have the legal authority it does not now have, in my respectful opinion, and I think it could be accommodated within the park. I think Mrs. Parsons will acknowledge there has been some discussion about the accommodation and the remainder of these lands being left for the lawn bowling club, but they too want a little more space. They want regulation greens and they cannot be accommodated within their present space.

Mrs. Parsons: Yes, but we can operate where we are and have operated where we are.

Mr. Cork: Yes, I understand.

Mr. Chairman: If you look at the compendium, there is an article of November 13, 1984, that shows the positioning of the track and how it relates to the bowling green. Apparently, it nips along in front of it. Is that a fair statement?

Mr. Cork: I think that is a fair statement.

Ms. Bryden: Is there not some dispute about whether the track would be this way or that way, east-west or north-south, and therefore there might

be problems of access to either the bowling green or the balance of the park. Some of the routes of entry would have to be changed so people would not have to cut across the track.

Mr. Cork: I think the parks board has made it clear that it wants access to remain via a street that is shown on the sketch referred to by the chairman, coming from east to west, access from Adelaide Street on the west side and of course access would continue to exist from the south along Kent Street. There is no proposal to change the access. The way in which the track is laid out may at its optimum require relocation of the lawn bowling club. However, that is not to say it cannot be laid out in a way that continues to accommodate the lawn bowling club within its present limits in the same location.

In my view, and I think it is shared by the municipality, the best solution, funding being available, would be to have the lawn bowling club have alternative space and larger space because it wants larger space for larger greens, and to have the track configured in the optimum way using part of the land bowling lands. That may not be possible, and if it is not possible, we will have to try to configure in a way that accommodates both.

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Ms. Bryden: That is assuming the bill passes.

Mr. Cork: Assuming the bill passes.

Mr. Chairman: Let me just stop. I want to tell you whom we have on the list. We have Ms. Bryden still questioning. Mr. McKessock, I gather your questions were asked. No? You are on the list. Mr. Lupusella is on the list. Mr. Barlow is on the list. Mr. Haggerty is on the list. Mr. Miller, unless that was your contribution, we have you on the list. We have Mr. Hennessy on the list. It become quite obvious that we are all either going to adjourn to the glorious counties of Victoria and Haliburton for the balance of this hearing or we are going to deal with it today.

I would like to put in perspective that the real issue here is the question of whether the municipality or the lawn bowling club can legally continue to occupy that land. I hope we are not going to deviate from that thought. I think what happens locally is a local decision they have to make. Maybe that helps other peoples' questions and reduces the number of people on the list.

At the moment all of them are there illegally. That cannot be changed unless it is done this way or, as Mr. Cork said, through a variation of trust application to the Supreme Court of Ontario.

Mr. Cork: That is exactly the issue.

Mr. Chairman: I think the only way we are possibly going to conclude this hearing today is--and I hope I can have consensus on this--if there are questions from one member of each party. Ms. Bryden is already questioning. Otherwise, we are not going to get through it.

Ms. Bryden: I have not concluded because I really am opposed to the destruction of this trust. When you set aside trusts you are in very dangerous waters, and I wanted to give my reasons. We then have to look at whether you can fit the bowling club or the track into any land that is available.

I am also opposed to the very broadness of the bill, which is trying to give the city the complete control of the park, even though there was a trust that said it would be a park only. Once you give the city complete control, it can do anything it wants with that park, including putting a McDonald's on it probably.

Mr. McKessock: On a point of order, Mr. Chairman: Can we have a clarification here as to what the deed actually says? I am not clear on it.

Mr. Haggerty: Is there a document here to that nature? What does it actually say?

Mr. Chairman: There is the habendum clause on page 2 of Mr. Cork's letter to the clerk of the town of Lindsay, under the heading "Title to Park Property."

Mr. Cork: I have a copy of the deed if Mr. McKessock or any other member of the committee would like to see it.

Mr. McKessock: Could you read the part that pertains to the lawn bowling?

Mr. Chairman: This is really not a point of order but a point of clarification.

Mr. McKessock: There is nothing in the deed that pertains to the bowling?

Mr. Cork: No. If I may, I will read the two clauses in the deed that relate to this issue. There is a recital on the first page of the deed reciting that the grantors, Carlisle and Johnson, "who have been holding the lands hereinafter conveyed in trust for a group of citizens who desire to have the property hereinafter described conveyed to the grantee"--that is, the municipal corporation of the town of Lindsay--"to be held and maintained by the grantee as a public park and horticultural garden for the benefit of the general community of the town of Lindsay subject to the supervision and control of the grantee." That is the town.

There is also a clause in what is described as the habendum to the deed, which is the clause that might limit the use to which a grantee might put the property which says that the grantee "is to have and to hold unto the grantee, its successors and assigns to and for its sole and only use for ever to be held and maintained by the grantee as a public park and horticultural garden for the use of the citizens of the town of Lindsay subject, however, to the supervision and control of the grantee."

Mr. McKessock: So the estate deeded these lands to the town.

Mr. Cork: No. Mr. Carlisle and Mr. Johnson were both living at the time they deeded the lands. They were trustees of funds and a group of citizens who in turn decided to convey these lands to the town.

Mr. McKessock: So there is no will involved and nothing in the deed that says anything about the bowling?

Mr. Cork: No.

Mr. Haggerty: But it says its sole use would be for a public park.

Mr. Cork: And horticultural gardens.

Mr. Haggerty: That is right. What you are asking to do is to alter the complete trust for other uses.

Mr. Cork: Alter it in the sense that it will continue to be used as a public park, but it can also be used for athletic purposes, rather than just for passive purposes as a horticultural garden.

Mr. Haggerty: A parking lot or something like that.

Mr. Hennessy: That seems to be my--

Mr. Chairman: Just a second. This has all arrived out of a point of order which was not a point of order. I am going to go back to Ms. Bryden, so we can then go through the list. Sorry, Mr. Hennessy.

Ms. Bryden, just a few brief questions.

Ms. Bryden: I may have some way of solving your time dilemma in that I would like to refer this back to the town of Lindsay and the applicant and the others with the proposal that they work out a compromise which would delineate very carefully what is needed for the athletic complex and then leave the rest of the park to fulfil the public park and horticultural building part in that way.

They may be violating the trust, because it all depends on how you interpret those words, but at least there would be some guarantee that the rest of the park that is not needed for the athletic complex would be more or less kept in its present state and for its present use. That could include allowing a corner of it for bowling. There was a corner for a swimming pool, I understand, that is probably in the same state as the bowling in that it has no legal status. Would that not solve it?

If the bill came back to us with a change in section 2, that would indicate that what they were asking is to set aside or broaden the trust to provide for the athletic complex but that it would relate only to the piece of land they are going to need for that. We do not set aside the trust requirement for the rest of the park; it continues to operate as the trustees ask.

Mr. Chairman: Is that an inquiry of Mr. Cork or is that a motion? If it is a motion, you are going to have to put it in writing, and we will have to vote on it.

Ms. Bryden: First, I would like to explore whether it is possible and whether they would accept amending the bill to make that clear. Some of the problem has been that the advertised intent of the bill was to permit the town of Lindsay to use or allow to be used the lands for athletic purposes; that might mean all the lands. There is concern that they could use all the lands for athletic purposes. I think that is what we would like to forestall. Is that a possible compromise that could be worked out by an amendment to the legislation?

Mr. Cork: The purpose of the bill is to obtain some legal authority to allow the municipality to deal with part of its lands in a way somewhat different than perhaps was originally intended. We purposely decided not to say it would be any particular part, because we wanted to leave it to the

local officials to have the ability to negotiate what part and to what extent some way down the road.

That process has taken place and, I think, will continue, to some extent. But I must ask, with respect, that be left to the local officials and that the limits of this bill not be circumscribed in saying they can use only 212.5 feet of that park, because that may not accommodate the local people, that may not accommodate the lawn bowling club and it may not accommodate the county board of education. It may not accommodate the parks board or its recreational commission. I am saying that is really not, in my respectful opinion, a viable compromise. I think that is something that has to be left to the local elected officials to work out.

Ms. Bryden: Could Mrs. Parsons comment on this? There are more than the local elected officials involved.

Mr. Chairman: Before Mrs. Parsons comments, we are going to have to have consensus of the committee that we perhaps continue until 12:30.

Mr. Haggerty: I am afraid not. I have other commitments.

Mr. Chairman: As long as we can keep enough here to deal with this matter, I would like to canvass whether we have consensus to sit till 12:30.

1200

Mr. Haggerty: With all due respect, Mr. Chairman, I have been waiting to get on the floor here and it has been taken up by one particular member. I was just looking at this whole matter here this morning, the issue that we are really not dealing with.

Mr. Chairman: All right. At the moment, Mr. Haggerty, I am trying to get consensus and we are not speeding it up by addressing that. I appreciate what you are saying. I would like to know whether we have consensus to sit until 12:30.

Mr. Haggerty: No.

Mr. Chairman: If you cannot be here, just refrain from voting so we have the members' consents.

Mr. Haggerty: When you ask for consensus you have to have--

Mr. Lupusella: He can speak in my place.

Mr. Chairman: Do we have the unanimous consent, with the exception of Mr. Haggerty, that we could continue to 12:30? I think it is important that we deal with this issue with these people. It appears as though we have unanimous consent.

Mr. Mackenzie: If necessary, 12:30.

Mr. Chairman: Okay. Perhaps the second item is the comment that Mrs. Parsons made of 52.2 per cent of the people in Lindsay being senior citizens. I would say that is a significant political crunch in that if the town council does not adhere to their wishes, they may very well find themselves looking for other jobs. So I would think that is probably a pretty good safeguard.

Mr. Barlow: They have only got one provincial member.

Mr. Chairman: In any event, Ms. Bryden, it is obvious that is not something that they are prepared to consider.

Ms. Bryden: Well, we have not heard Mrs. Parson's comments.

Mr. Chairman: I do not know whether that will be of any help to us at all in this regard, in terms of whether the council is prepared to do it. I think in fairness to the other members I am going to have to move on, Ms. Bryden.

Ms. Bryden: Well, I am offering a compromise. We have only heard from one part of the--

Mr. Hennessy: What about the rest of us?

Mr. Chairman: Relax.

Mr. Hennessy: You can compromise--

Mr. Chairman: Relax.

Mr. Hennessy: That is why you are such a lovable person.

Ms. Bryden: Surely we could hear from the people who are opposed to the proposal--

Mr. Hennessy: Let the other people talk.

Ms. Bryden: --and those who are in favour of it, just as to whether it is possible.

Mr. Chairman: Do you want to come up here and take the chair, Mr. Hennessy?

Ms. Bryden, I do not think that would assist us because it would not be up to those people at this time. It would be up to the council as to whether they would be prepared to go back and do that, and it does not appear that could be the case. But if you would like to write out that motion while I deal with some other speakers, we will put it to the vote.

Mr. McKessock: How many acres does this involve?

Mr. Cork: Approximately five acres.

Mr. McKessock: Mrs. Parsons, does your residence abut this land?

Mrs. Parsons: Yes, we are on the east side. What do you mean? Not my home, no.

Mr. McKessock: Not your home?

Mr. Chairman: I wonder if you could bring that map forward so that we may use it. It may be of some assistance.

Mrs. Parsons: Not my home--

Mr. McKessock: Oh, just the lawn bowling--

Mrs. Parsons: Yes, not my home--

Mr. McKessock: So the lawn bowling is all you are interested in?

Mrs. Parsons: Yes, that is right.

Mr. McKessock: It does not interfere with your residence at all?

Mrs. Parsons: No.

Mr. Chairman: Just hold it up there maybe.

Mr. McKessock: Where is it?

Mr. Chairman: Now, if you will just have a seat, Mr. Cork, and we can--

Mr. Cork: I cannot hold it up and sit down at the same time.

Mr. Chairman: Is that right? You sound like Gerry Ford. I am sorry about that. Mr. McKessock, would you like to continue?

Mr. McKessock: Where is the park? Which one is it?

Mr. Cork: The park extends from this point on the west through here and these lands are currently owned by the county board of education. The public park that is described in the deed also includes the lawn bowling facility in this area here.

Mr. McKessock: So that is the proposed development, is it, of the track--

Mr. Cork: Yes.

Mr. McKessock: Is there any way that the lawn bowling can be regulation-sized or is that land not big enough for it even if they were granted whatever they needed?

Mr. Cork: May I ask the architect who designed this to answer that?

Mr. Chairman: Is he behind the sign?

Interjection: No.

Mr. Collver: This plan that I am showing in front of you right now--

Mr. Chairman: I am sorry. Could you identify who you are before you--

Mr. Collver: My name is John Collver.

Mr. Chairman: Just sit down, John.

Mr. Collver: I am a landscape architect. This plan I am showing you right now shows the existing conditions as they are at present, except the fact that the swimming pool has since been demolished and filled in. The park has been sitting in this configuration for quite some time since the schools were built. It has been basically used as a play space, if you will. The lawn

bowling club exists in the situation you see here. It does not currently have the size requirements necessary for regulation-sized lanes for lawn bowling.

Mr. McKessock: Do I take it that the lanes would have to be turned around the other way to give them enough length?

Mr. Collver: That is correct.

Mrs. Parsons: Excuse me--

Mr. Chairman: Mrs. Parsons, we can take only one voice at a time, but if you would like to make just a quick interjection there, we will get back to you.

Mrs. Parsons: We have regulation as far as ordinary tournaments and everyday club bowling go. The only thing is that if we were to go in and hold the big provincial games, we would have to have bigger lanes.

Mr. McKessock: Mrs. Parsons, is that what you wanted to do then, turn your lanes around and go out into the other area?

Mrs. Parsons: Not necessarily. All we want to do is keep what we have got so we can lawn bowl. That is all. That means they can change their track around so it does not interfere with our lawn bowling club.

Mr. McKessock: I take it from the proposal there that it does not interfere.

Mrs. Parsons: It does. When it comes over like that, it takes one big corner; it takes about two greens.

Mr. Collver: I am sorry to differ with you. We have spent quite a bit of time looking at the existing conditions and how we cannot at all touch your lanes. We have to go to a considerable expense building a retaining wall so that we will not infringe on any of your lanes whatsoever.

Mrs. Parsons: That is right.

Mr. Collver: We have not touched any of your lanes.

Mr. McKessock: There are still four lanes.

Mrs. Parsons: I did not say you have--yet.

Mr. Collver: That is correct.

Mr. McKessock: There are four lanes on both pictures there.

Mr. Collver: That is right. We have not touched the lawn bowlers. We have not touched them at all. This has cost us a fair bit of money, to build a retaining wall so that we do not in fact touch them.

Mrs. Parsons: That is fine.

Mr. Collver: The other thing I want to stress is that we are calling this Kawartha Park. The multipurpose field is only one portion of the park. We still have open play areas, we have a tot-lot area for smaller children, we have an extensive amount of plant material which will be worked at over a

period of years to further enhance the fact that this a park. That is the mandate I think was given to us from the very beginning, that this be developed as a park.

Mr. McKessock: It looks like a very good proposal to me. Mrs. Parsons says if you do not interfere with theirs, I think--

Mrs. Parsons: We have no objection.

Mr. McKessock: --they have no objection. I just cannot quite understand why this was not sorted out with the lawn bowling people before you came down here.

Mrs. Parsons: That is right.

Mr. Chairman: Do I gather, Mrs. Parsons, that if that statement is accurate, you have no further objection?

Mrs. Parsons: As long as they are not interfering with our bowling club, we have no objection.

Mr. Chairman: Is that the fact, that it is not interfering with the bowling club? Do I take that nod as a yes?

Mr. Collver: That is correct.

Mr. Chairman: All right. That is on the Hansard record.

Does that eliminate a lot of the questions of the committee members?

Mr. Hennessy: In view of that plan (inaudible) senior citizens' lawn bowling, it looks like they wasted a lot of time and a lot of gas coming down here because--

Mr. Chairman: That is anecdotal, Mr. Hennessy. I know, as we all fast approach being senior citizens, that is a justifiable comment.

The next person on the list is--Mr. Lupusella, you had indicated someone could take your place.

Mr. Lupusella: I eliminated one question because we have a clear indication of what the plan is going to be. The doubt I have about the bill per se is on section 2, which says that the park may be used for general public park purposes and that this is a discretionary power given to the township which eventually might change even its procedure. I am just wondering if we can get a clear indication of what you are going to do, because under this bill, the position of the township is completely unclear.

Mr. Cork: A municipality can only do what it is enabled to do by the Legislature. Mr. Offer may wish to speak to that. This bill would enable the municipality to use these lands for certain purposes. Those purposes are restricted, though, to those of a general public park, including athletic activities and sports. It does not have any broader ability to use the lands than it is given in the enabling legislation. It is permissive legislation, but that is the extent of the permission. It does not say that it may also be used for condominium development or anything else.

Mr. Chairman: Mr. Barlow?

Mr. Barlow: No question.

Mr. Chairman: Marvellous. Mr. Haggerty?

Mr. Haggerty: Yes, I have one difficulty in supporting the bill, and I will give you my reasons. I am a little bit concerned that perhaps we are going to establish a precedent here that anybody else, regardless of what community it is, can apply for similar legislation. Normally parks are established in communities because you get some dedicated citizen or family who says, "I want to dedicate this land for a park in perpetuity."

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When I look at this, we are altering the intent of William J. Carlisle and Alfred Johnson, the trustees who put it in the hands of the municipality. We can see, over the years, that there has been a little bit of nibbling taking away land from that original park, in violation of the trust.

What is going to happen here is that once the committee accepts this bill, if it accepts the bill, it means that, as you can see, changes will come about in almost every municipality because they will be applying for a private bill here to alter the purpose and the intent of the preservation of park lands within a municipality.

That is my concern because, when I look at it here, this will definitely alter the intent of the trustees when they deeded the property to the municipality in the first place. We could have a chain reaction in many municipalities, saying, "Well, let's go this route then; we can get private legislation." I just feel, for that reason, I cannot support it.

Mr. Chairman: There is one small difference, Mr. Haggerty, in that this, de facto, has already occurred. As I see it, with all the things that have been put on it, the trust has been violated for years.

Mr. Cork: I think within the lifetime of the givers of the trust in the first place, Mr. Carlisle and Mr. Johnson, at least one of them was still alive when the lawn bowling club started.

Mr. Haggerty: He must have been a lawn bowler.

Mrs. Parsons: They both were.

Mr. Cork: He might also have been a swimmer, because there was a swimming pool inserted in that park, which has recently been closed.

Mr. Haggerty: I consider a swimming pool is part of a park.

Mr. Cork: It is not a horticultural garden.

Mr. Haggerty: No, but you are changing the whole thing here, are you not? You are going to put in asphalt.

Mr. Cork: No, no. It is an active park, as opposed to a passive one.

Mr. Haggerty: The intent was passive, was it not, though?

Mr. Cork: I do not know what he meant by a public park.

Mr. Haggerty: You said "horticultural." That is my view and I do not want to take any more time in the committee, but I can just see that we are going to do this and it could lead to problems.

Mr. Cork: I think the committee or the Legislature must look at each case on an individual basis, and it has done so in this case.

Mr. G. I. Miller: I think the legislation is permitting the town to manage its own property and to get clear title, and I think it is very simple and straightforward. As long as we have agreement from the municipality and the lawn bowling club, in my view, I think we should support it and move forward.

Mr. Hennessy: Looking at this public park, I always thought you ought to call it a recreation field or athletic field or something like that if you are going to participate in running, baseball or something of that nature. You mentioned the risk to the athletes. How about the risk to the senior citizens? It makes me wonder, when the province spends millions of dollars in Senior Citizens Week, and says the senior citizens have the power now. In the meantime, they do not have the power and you know as well as I do--you are sitting here--that if, with due respect, your promises are not on paper, they are not going to hold water with the members of the council.

Mr. Chairman: Mr. Hennessy, perhaps the motion that I now have from Ms. Bryden might properly be read and might assist you with some of the questions you are asking.

Mr. Hennessy: I think, Mr. Chairman, if all the members decided to sit here until 12:30 p.m., I cannot see why we cannot speak our piece, otherwise you might as well stay here yourself.

Mr. Chairman: No, I am not interrupting at all. I am just saying--

Mr. Hennessy: I understand. Marion Bryden always has a resolution.

Mr. Chairman: No, it is a different motion than what she had put before us.

Mr. Hennessy: No matter what it is, she will have one. Yes, I agree with you but she has taken up 90 per cent of the time. I think the other members and myself should have a chance. Let us hear her resolution after.

Mr. Chairman: All right. Just let me read it to you and then you can continue your questioning, all right?

Mr. Hennessy: And then go back to sleep.

Mr. Chairman: Ms. Bryden moves that section 2 of the bill be amended by striking out all the words after "deed," and substituting the following, so that it would read: "Notwithstanding subsection 13(5) of the Public Parks Act or any term or condition set out in the trust deed, that portion of the park required to establish a multipurpose athletic field and a track and a regulation-size bowling green may be used for athletic purposes and sports." That is what she is proposing.

Ms. Bryden: If I may speak briefly, Mr. Chairman, I am proposing that the bill spell out the piece you need for these two activities. It would be desirable if the bill could spell out the exact description of that land,

but if it stays like this I think you could still arrive at a description that would cover that meaning, and that the rest of the park will still stay under the trust and be held for a public park and a horticultural garden. That would assure the citizens that the purpose for which the park was deeded to them would be continued in all the rest of the area that is not used for the athletic field. I understand there is quite a desire for the athletic field and the school board probably needs it.

But it worried me when I read in the paper an article by David Selby, the Lindsay Daily Post reporter, who said the mayor pointed out that the bill "requests that the park's future uses will be determined by council." It is complete carte blanche to let the council do anything it wants with it, in his opinion. The deputy reeve "wondered if council could give the residents some assurance that the rest of the park would not be affected."

I think that is the issue before us. If we can give the residents that assurance, then I think most of them would go along with the idea of a part of it being given and the deed set aside for that part only.

Mr. Chairman: Okay, Mr. Hennessy, you are back on. I simply read that to see whether that was of assistance to you in your question.

Mr. Hennessy: The idea is that you are giving us the role of being legal people, to change something that is made by a lawyer or made by people. I would hate to think that you people would have the authority, or myself, if somebody makes a trust or a will, whatever it may be, and they can come here and you can change it without going through the proper legal authorities.

I am beginning to wonder, you know, if we get carried away with ourselves and I cannot see this as the role of this committee. We have no business in doing that. That is not my role; I am not a lawyer. I cannot see us changing anything that is drawn up and passed by the courts or passed by a lawyer. This is not a court of law. We are going to look a little stupid if we do that, as far as I am concerned.

Let us get back to what I am talking about. My main concern is that it reminds me of when I buy a suit. The guy says, "It's a nice fit." But after you pay for the suit and come back for an alteration, he does not know you.

The senior citizens can be placed in that position too. Once the deal is signed, you have no legal rights whatsoever. The only fair thing, I suggest, is that I would support the bill provided the senior citizens can come to some agreement with the city in regards to suitable quarters, then you will have no argument. They would be satisfied.

Mr. McKessock: It appears to me they have already done that.

Mr. Hennessy: It is not in writing, sir, and I think it has to be in writing. That is what I am trying to say. I am not criticizing the lawyers. The lawyers say, "We'll do our best." You just say that you are taking care of the youngsters, the athletes. Let us take care of the senior citizens too. They are also residents and citizens of that municipality. Let us try to treat everybody fairly, and then there is no problem in our supporting the bill.

Mr. Chairman: Mr. Cork, would you like to reply to that?

Mr. Cork: Mr. Hennessy, would you be assured any further if you were assured by the elected representatives from this municipality, who are here today, rather than by me?

Mr. Hennessy: Would it be in writing?

Mr. Cork: No, they will give it to you as a matter of record, I am sure.

Mr. Hennessy: Is it up to the chairman if he would accept that?

Mr. Chairman: If it is in Hansard, Mr. Hennessy, I can tell you that on one previous matter we dealt with we were given an assurance on the record and they went back to the council and did something differently. I sent them a copy of Hansard and it was changed.

Mr. Hennessy: Has this gentleman got the authority to do that?

Mr. Chairman: Perhaps you could just take a second, Mr. Cork, and find out if that is possible.

Mr. Cork: The reeve, Mr. Chester, is here.

Mr. Hennessy: Mr. Reeve, do you have the authority of your council?

Reeve Chester: I am here on behalf of the majority of council to answer any questions that the committee might have. I can point out to the committee that I personally ran on a ticket in the last election of supporting this proposal. Everybody who did run on this particular issue and supported this issue was elected. I can indicate to you that the community in general is in support of this proposal.

Mr. Chairman: That is not the question Mr. Hennessy has asked.

Mr. Hennessy: I know what you are saying, but that is not what I want to hear.

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Reeve Chester: All right. We have always supported the lawn bowling club. We are quite prepared to put on the record and on Hansard that they can stay there and occupy and use that park that they have used and occupied for some 60 years. They can continue to do that.

The only concern the town has--and we are trying to support the lawn bowling club in trying to get other facilities that are much larger; it wants a new and bigger clubhouse. You can appreciate that we can go only so far, because it is a private association. It is not a public association; it is a private club.

We have co-operated with them in the past, and I can give you our undertaking, as best I can, representing council, that we will co-operate with them in the future and allow them to stay there and use those facilities.

Mr. Hennessy: In the event that they get new quarters, will the financial fee they pay be the same as it is now? They will not be frozen out financially. Maybe you will ask so much money they cannot afford to keep up the new one.

Reeve Chester: I do not think we have ever asked them for any money. There is no need to do so.

Mr. Hennessy: I do not know. I do not live there. I am asking.

Reeve Chester: It has been \$1 a year.

Mr. Hennessy: Will it be the same rate?

Reeve Chester: Yes.

Mr. Hennessy: Is that satisfactory to you?

Mrs. Parsons: Yes.

Mr. Hennessy: No problem.

Mr. Chairman: We now have Ms. Bryden's motion, which I read to you earlier. We are going to deal with that first. Does anybody wish to have it read again? Do you know what you are voting on? I am going to call the vote on that motion.

Mr. Barlow: I think I can support the motion, all right. I just wonder whether Mr. Cork would have any comment on the motion.

Mr. Cork: I am sorry, Mr. Barlow. Could I ask the chairman to read the motion again, and could I have some instruction from the people who are here?

Mr. Chairman: Ms. Bryden moves that section 2 of the bill be amended by striking out all the words after "deed" and substituting the following: "that portion of the park required to establish a multipurpose athletic field and track, and a regulation-size bowling green may be used for athletic activities and sports."

I am not certain that is what the reeve or Mr. Cork were talking about, but I leave that to him.

Mr. Cork: So there would be a deletion of the reference to its continuing to be used as a public park.

Ms. Bryden: It would relate only to the portion that is going to be used for the athletic field and the bowling green. The rest would stay as the trust deed prescribes.

Mr. Cork: I have some concern that the public trustee and the Ministry of Municipal Affairs have been quite anxious to see that the public not be denied access to this park. They have been quite anxious to leave the word "public" in the bill, and we support that concern.

Ms. Bryden: I would accept a friendly amendment to add, "and that the balance of the park would be used for a public park and horticultural purposes."

Mr. Cork: I am sorry, we cannot accommodate a regulation-size lawn bowling facility.

Mrs. Parsons: No, we would not be able to change.

Ms. Bryden: We could change that to "adequate size" or something like that.

Mrs. Parsons: Yes.

Mr. Hennessy: I would like to have you on Hansard saying that. Put it on Hansard so that 20 years from now, when I am not here--

Mr. Barlow: You will still be here.

Mr. Hennessy: Do you think so?

Reeve Chester: I am prepared to put on Hansard that what is there now can remain with respect to the lawn bowling club.

Mr. Hennessy: And your name, sir?

Reeve Chester: Lorne Chester.

Mr. Hennessy: Reeve?

Reeve Chester: Reeve of the town of Lindsay.

Mr. McKessock: Then we do not need any amendments.

Mr. Hennessy: Okay, that is it.

Mr. G. I. Miller: I just want to speak. I support my colleague the member from Thunder Bay. I think we have to leave it in the hands of the local elected officials.

Mr. Chairman: Okay, we are going to vote. I am going to call section 1 first. Shall section 1 carry?

Section 1 agreed to.

On section 2:

Mr. Chairman: Ms. Bryden moves that section 2 of the bill be amended by striking out all the words after the word "deed" and substituting the following: "that portion of the park required to establish a multipurpose athletic field and track and an adequate-size bowling green may be used for athletic activities and sports."

Shall the amendment carry?

Interjections: No.

Mr. Chairman: May I have a show of hands? Those in favour of the amendment? Those opposed?

Motion negatived.

Mr. Chairman: Shall section 2 carry?

Ms. Bryden: Opposed.

Mr. Chairman: Do you wish the same vote to apply, Ms. Bryden?

Ms. Bryden: Yes.

Section 2 agreed to.

Sections 3 and 4, inclusive, agreed to.

Mr. McKessock: I have an amendment to the preamble.

Mr. Chairman: Mr. McKessock moves that the preamble to the bill be amended by striking out the words "lease or convey" in the 10th line and inserting in lieu thereof "or lease."

Shall the amendment carry?

Ms. Bryden: I am opposing the entire bill, because I do not like interfering with trusts.

Mr. Chairman: You can vote against it. I gather the same vote will apply throughout.

Shall the amendment to the preamble carry?

Motion agreed to.

Preamble, as amended, agreed to.

Schedule agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

Ms. Bryden: Do you have me recorded as opposed to all of those?

Mr. Chairman: Yes. In each instance, you are recorded as opposed.

Thank you very much. You can now return to beautiful Victoria-Haliburton. Thank you for coming.

The committee adjourned at 12:26 p.m.

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T-3

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

WINDSOR YOUTH MARCHING AND CONCERT BAND ACT
CITY OF TORONTO ACT

WEDNESDAY, JUNE 10, 1987

Morning Sitting



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Callahan, R. V. (Brampton L)

VICE-CHAIRMAN: Haggerty, R. (Erie L)

Bryden, M. H. (Beaches-Woodbine NDP)

Dean, G. H. (Wentworth PC)

Hennesy, M. (Fort William PC)

Lupusella, A. (Dovercourt L)

McKessock, R. (Grey L)

Miller, G. I. (Haldimand-Norfolk L)

Pouliot, G. (Lake Nipigon NDP)

Shymko, Y. R. (High Park-Swansea PC)

Wiseman, D. J. (Lanark PC)

Also taking part:

Newman, B. (Windsor-Walkerville L)

Clerk: Manikel, T.

Staff:

Mifsud, L., Legislative Counsel

Witnesses:

From the Windsor Youth Marching and Concert Band:

Laird, J. S., Legal Counsel

From the City of Toronto:

Eggleton, A., Mayor

Kanter, R., Councillor, Ward 5

Walker, M., Alderman, Ward 10

Foran, P., Deputy City Solicitor

From the Architectural Conservation of Ontario Inc.:

Keefer, A., President, Toronto Branch

From the Ministry of Citizenship and Culture:

Teitelbaum, S., Solicitor

From the Ministry of Consumer and Commercial Relations:

Offer, S., Parliamentary Assistant to the Minister of Consumer and Commercial Relations (Mississauga North L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, June 10, 1987

The committee met at 10:15 a.m. in committee room 151.

WINDSOR YOUTH MARCHING AND CONCERT BAND ACT

Consideration of Bill Pr68, An Act respecting Windsor Youth Marching and Concert Band.

Mr. Chairman: We have a quorum. We will proceed. The first matter on the agenda is Bill Pr68.

By way of introduction, we have already had this bill before us. I am not sure if it was before the exact same members of this committee. As I recall, they showed an excellent videotape of the subject matter of this bill. For that reason, there should not be too much debate.

Perhaps, just by way of refreshing our memories as to what it is all about, the gentlemen at the table could identify themselves for the purposes of Hansard and give us a brief rundown of what the bill is about.

Mr. Laird: As you probably recall, Mr. Chairman, the last time we were here we spent perhaps three hours basically discussing one issue. That was the question of whether this application could succeed where property ownership had not yet been acquired.

I am pleased to report that I have in front of me here a deed to the land, a copy of which I believe I have sent to all interested parties. The property has been acquired. The Windsor youth marching band is in fact the owner, I might say not for a nominal consideration, but for a substantial consideration.

That being said, and it being clear that they are now the owner, I would like to make reference to Hansard of the last session. On page T-18, I would like to quote Mr. Shymko, when he said:

"I support your organization totally. If you can only convince the board or someone to finalize the transaction so that you are nominally the owner of that property, you would have no problems. You would have the support of every member of this committee."

I really cannot say much more than that. We are the owner, Mr. Shymko.

Mr. Chairman: I think that says it all.

Mr. Laird: It is not a nominal consideration; it is a real consideration of hard-earned dollars. I will only re-emphasize three major items: We purchased this land from the Windsor Board of Education. The land was not subject to tax at the time we purchased it. We are not depleting the tax base of the corporation of the city of Windsor.

I would also reiterate what I said last time, that is, we have the unanimous consent of the council of the city of Windsor, which rarely

unanimously consents to anything but did on this occasion. This organization has not only received local acclaim but national and international acclaim. It has appeared at such places as Disneyland, the Orange Bowl Parade and other places.

I have not been informed of any objections whatsoever locally. They are in your hands with respect to this application. If people here are concerned about the nature, objects and purposes of this organization, let me assure them that the council of the city of Windsor is the ultimate safety valve. We are asking for nothing more than enabling legislation, which enables the council to pass a bylaw that would exempt them.

If, in its wisdom, the council of the city of Windsor does not deem them meritorious in terms of granting that exemption, it simply will not pass the bylaw. These people are ambassadors of goodwill, not only locally but also nationally and internationally. They are a credit to our country. I can say nothing more than that.

Mr. Chairman: Fine. Thank you very much, Mr. Laird. For those members who have just arrived, we have had this before us before, as you recall. You will remember we had an excellent videotape presentation, so I would not anticipate there would be that many questions, but I will put the question. Does anyone wish to--oh, I am sorry. Yes, for the government, are there any objections or comments by the government?

Mr. Offer: There are a few comments, if I might, through you to the members. As has been stated by Mr. Laird, the previous application by the Windsor youth marching band for a tax exemption was heard and rejected by the committee on June 25, 1986. The application was rejected primarily because the organization did not fulfil the criterion which your committee has established that the land in question should be owned and occupied by the applicant. As you will recall, at the time of the application, the land was owned by the Windsor school board and the band was negotiating for its purchase.

1020

Also at that time, the committee did consider the question of whether an organization such as the band was a community-wide service group in the accepted sense of previously exempted organizations. We heard through their submission that the organization did provide a community-wide education service and was unique in the province by the nature of its size and educational function.

The position of the government is that, because the applicant has purchased the property described in the bill and the bill now states that the application applies only "so long as the land is owned, occupied and used solely for the purposes of the Scarlet Brigade," in our opinion, the applicant has met the committee's stated requirement or criterion for consideration of a tax exemption. As such, we are indicating that our previous objection to this application be withdrawn and will be withdrawn.

But we want to indicate very clearly that we accept the Scarlet Brigade's arguments on its unique status in the province and we do not view this bill as establishing a precedent for other local bands, orchestras or choirs of that nature. The objection we had indicated earlier was based on the fact that the applicant did not own the land and has now been clearly met. We are also of the view that this particular applicant and particular band is one of unique status in the province. We just want to indicate that and we have no objection to this application any more.

Mr. Lupusella: I would like to raise a question on subsection 1(1) of the bill, which states that, "The council of the corporation of the city of Windsor may pass bylaws exempting from taxes for municipal and school purposes...." I wonder why you are using the plural "bylaws" when in fact you are dealing with a very specified parcel of land in this bill. I am just wondering why there is a plural and not a singular, one bylaw, which will accommodate--

Mr. Chairman: I understand it is standard drafting, Mr. Lupusella. So I am told by legislative counsel.

Mr. Lupusella: The other problem I have in my mind, and I would like to share it with committee members, is that there is mention in the same subsection 1(1) of exemption from taxes "as defined in the Assessment Act." I am not particularly pursuing this issue with the people making a presentation before this committee, but I have a little bit of concern about all the bills that are going to be brought to our attention. If we are going to continue the exemption from the Assessment Act in order that they will not pay taxes, in the end, the local residents of the area are going to carry all the burden of taxes. This is just a concern I have in my mind.

Mr. Chairman: We are not exempting. As you know, it is the corporation of the city of Toronto that may, if it wishes, pass bylaws and may rescind them from time to time as well. I am sorry; not Toronto but Windsor. I beg your pardon. I have Toronto on the brain because we are hurrying to get to the Toronto matter.

Do you have any other questions, Mr. Lupusella?

Mr. Lupusella: No. Thank you, Mr. Chairman.

Ms. Bryden: I am very glad to meet the group and hear its presentation. I was impressed by the video film, which showed us what kind of work the band does. I think it has an international contribution also when it visits other cities.

Now that they do own the property, the first barrier that caused the rejection has been removed. I understand the parliamentary assistant is supporting it for that reason. He is also supporting it on the ground that this is a unique group.

In many other applications for tax exemption, we keep asking that the Minister of Municipal Affairs (Mr. Grandmaître) bring in general legislation about tax exemptions so that all the bills do not have to come to us. Still, in the absence of such legislation, as my colleague Mr. Lupusella mentioned, we do have to deal with each issue.

The point the parliamentary assistant made, that this group is unique, is a second important reason for supporting this bill and will not necessarily open the door to a whole lot of other applications from bands and orchestras. Because of this group's unique nature and its contribution, I will certainly support the bill.

I did speak to my colleague the member for Windsor-Riverside (Mr. D. S. Cooke) who knows about the group. He said he would like to have been here this morning to vote for it, but as he had another committee meeting at 10 o'clock, he could not be here. Certainly, we both support this bill, and I hope it will go through.

Mr. Shymko: I just want to state that I am very pleased to hear that you have purchased the property. I came in at a stage of committee deliberations when I did not hear exactly how much you paid for it. My concern is when an organization or institution pays one dollar, rents something in perpetuity or for 100 years or leases something at a ridiculous amount which is simply a symbolic gesture of purchase rather than the market value or a reasonable purchase. I did not hear the figure. You have mentioned that a substantial amount was paid. I would imagine you paid what is reasonable for it. I am not asking for the figure, but this was not a symbolic payment.

Mr. Laird: This was painful consideration.

Mr. Chairman: That is different from what you put in the document.

Mr. Shymko: I did not see that. I just want to say that I am very pleased to hear this. This was a major concern I have had. As you related in your statement, we have to be careful not to break the criteria established by this committee for purchases such as these.

There was never any question as to the fact that you are a community organization. There was no question from this committee as to the nature and the importance of the work of the band in promoting tourism, and I am sure that role will be expanded even more in the years to come. I am hoping that now, with the passage of this bill, your organization will be enhanced even more. I know that the pain you have gone through in making the decision to purchase, in the long run, will be a blessing to you. Believe me, there was no intention by this committee or anyone to cause any pain.

My concern is--and some of it has been reiterated by Ms. Bryden and Mr. Lupusella, Mr. Chairman, through you to the representative of the Ministry of Municipal Affairs, and it is not only addressed to that specific ministry. It is also addressed to the Minister of Revenue (Mr. Nixon), the Premier (Mr. Peterson) and cabinet. To be blunt, this problem of municipal tax exemption for nonprofit or community organizations is in a mess. We do not have any standard policy on this issue.

I recall that with the previous administration, there were always problems, fighting and squabbling between those in cabinet who supported that and those who opposed it. Prominent members of cabinet, sometimes the Minister of Education, played a key role in having a concern about exempting properties from paying the education portion of municipal or property taxes. This concern may still be shared by some cabinet members.

I would urge the government to look into this whole area, because when someone says, "This is a special status," we start setting criteria with variances for one particular nonprofit community organization versus others, and we perpetuate the chaos even more. As time progresses, instead of resolving the issue, we will complicate it more.

When the ministry representative, the honourable parliamentary assistant to the minister, says this is a unique status, that it is somehow different from Villa Colombo or the Japanese Canadian Cultural Centre or other centres that were exempted, be they in the city of Toronto or in North York or in Scarborough--we tried to have a uniform system because we know what special status is all about. We have problems with an entire provincial jurisdiction in Canada where special status is a constitutional concern, to be debated. Special status causes problems.

1030

I differ with Ms. Bryden in saying this will not be a problem. It will be a problem and it will continue to be a problem. Any special status or any uniqueness or any difference, as it may be applied to exemption criteria for one organization in one area of the province versus other organizations in other parts of the province, is going to be a problem unless you resolve that by some province-wide, uniform, criteria legislation.

I want to point this out not as a concern that I have; I have been involved with some of my colleagues in the past in property tax exemptions, and they are problems. Some municipal councils have reservations about it. For example, the city of Toronto has set an entire 12-point list of criteria for any organization that will be applying through a private member's bill for exemptions, because the provincial government has no criteria. So the municipality was found in a dilemma in setting something. We may look at the criteria established by the city of Toronto council, for example.

It is a concern. I support the bill with the change. I am happy we have resolved it. I wish you success, but we have not resolved the dilemma some of my colleagues, Mr. Lupusella, Ms. Bryden, and I seriously address through you, Mr. Chairman, to the ministry and to the government.

Mr. Chairman: In my haste to get on with the Toronto matter, and with deference to you people from Windsor, I neglected to indicate that Mr. Newman was here. He sponsored the bill. Mr. Newman, I am not certain whether you had anything you wanted to say, or are you content that we simply deal with the matter?

Mr. Newman: The only thing I can say is that I hope the committee seriously considers the actions being taken by the organization and speedily passes this bill so it can get to work in the Windsor area improving the community in a substantial way.

Mr. Chairman: I think we have had a significant amount of discussion on this matter.

Ms. Bryden: I would like to correct the record.

Mr. Haggerty: Mr. Chairman--

Mr. Chairman: Just a moment. Mr. Haggerty, after this, when we get to the Toronto bill, we are going to go on the basis of one question from each member of caucus. Otherwise, we are not going to get through the witnesses we have in the time allocated. Unless it is something that has not been said, I would--

Mr. Haggerty: Well, I--

Mr. Chairman: We are ready to vote from what I can gather, but I am going to let Ms. Bryden, if there was a problem, correct whatever it was.

Mr. Haggerty: I just wanted to say that I supported this last year and I support it this year on the basis, perhaps, of a different viewpoint than some that have been expressed. I think many of us are missing the point here. I understand they have taken over an existing school that had closed due to declining enrolment.

When you look at music, it is a part of the educational system. I think, particularly, of the area I represent and the E. L. Crossley Secondary School marching band which you see on world television, you might say, in the Rose Bowl Parade and the Orange Bowl Parade. But it is part of the educational system in Niagara South. Music is part of education because it is understood in many languages throughout the world. That is one thing, I suppose, when you look at the cultural part of it; it is one of the best ways to communicate.

Anybody who lives near a border community, as I do in the town of Fort Erie, knows bands play an important role in goodwill to Americans to the south. It is a great thing that they can share this. I support it heartily, and I do not think there is any objection from committee members.

Mr. Chairman: Thank you, Mr. Haggerty. Ms. Bryden, unless it deals with the bill, rather than the comments both you and Mr. Shymko have made with reference to the province enacting general legislation as opposed to specific legislation, I think I am going to--

Ms. Bryden: I do want to say that for years I have been advocating general legislation. I hope that before the next application of this sort does come forward there will be general legislation. It could be part of all these announcements this so-called new-broom government is making to bring in new legislation for things that are long overdue.

Mr. Hennessey: When the accord is over, then they will start moving.

Mr. Chairman: Thank you very much, Ms. Bryden. I think we are ready to deal with this issue. I am going therefore to call the--

Mr. Hennessey: Recorded vote, please.

Mr. Chairman: All right. Shall sections 1 through 3 of Bill Pr68 carry?

Sections 1 to 3, inclusive, agreed to.

Schedule agreed to.

Preamble agreed to.

Title agreed to.

Bill Pr78 ordered to be reported.

Mr. Chairman: Thank you very much for coming. Have a safe trip back to Windsor.

Mr. Shymko: On a point of order, Mr. Chairman: Is there some motion that has to be made so that they recover the moneys to be paid back, some reimbursement of fees or something, on private bills?

Mr. Chairman: We do not have a motion typed up, but can we--

Mr. Shymko: Normally there is. I do not have the wording of the motion.

Clerk of the Committee: Fees less the costs--

Mr. Shymko: That fees less the costs be refunded to the organization.

Mr. Chairman: Mr. Shymko moves the usual motion with reference to a charitable organization. All those in favour of that motion?

Motion agreed to.

Mr. Chairman: Thank you very much. Have a safe trip back to Windsor. We look forward to seeing your band in the Rose Bowl or any other--

Mr. Laird: We certainly appreciate your consideration. It has been a long, hard struggle.

Mr. Chairman: Sorry we had to bring you back a second time.

Interjections.

Mr. Chairman: I was going to whistle during this.

CITY OF TORONTO ACT

Consideration of Bill Pr57, An Act respecting the City of Toronto.

Mr. Chairman: As committee members know, we are scheduled for this morning, plus after routine proceedings this afternoon and possibly next Wednesday after routine proceedings, although the schedule does not seem to indicate we will have to sit then. For that reason, I am going to ask for the assistance and co-operation of the members of this committee in that we would try to give each group half an hour. That will include questions from, I would suggest, one member of each caucus rather than whole-scale questioning. Is there a consensus to deal with it in that way?

Mr. Hennessy: Now you are moving.

Mr. Chairman: Is there consensus on that?

Mr. Dean: Who will be our designated hitter?

Mr. Hennessy: Yuri Shymko. Let Yuri be the spokesman.

Mr. Wiseman: Do we have a sponsor?

Mr. Chairman: Actually, as I understand it, any member can sponsor a bill. He does not even have to agree with it. It is simply a matter of a name--

Mr. Wiseman: But the ministry to be making comments--I just wondered.

Mr. Chairman: Mr. Offer is sponsoring the bill as a private member of the Legislature, I understand. Is that correct, Mr. Offer?

Mr. Hennessy: I still had that reservation a while back. It seems very odd that you are parliamentary assistant and you are also representing the--it is very difficult. You are wearing two hats.

Mr. Chairman: He left his other hat up here, Mickey.

Mr. Wiseman: But he will be back to that hat.

Mr. Hennessy: As I said, he will be back. When you ask him if the government objects, he will run up there and say it does not. Even the mayor has to laugh at that.

Mr. Chairman: No, I do not--

Mr. Dean: I think if we applied suitable correction factors--

Mr. Hennessy: Tell that to city council and see how far we will--

Interjection.

Mr. Chairman: We seem to be falling behind just with the general anecdotal comments. Perhaps we could get down to the meat of the issue.

Mr. Wiseman: I think we should take a good look at that, because there are lots who could have sponsored it and not have put him where he would be in what I feel is a bit of a conflict--

Mr. Dean: He would have had a clean bill of health.

Mr. Wiseman: --to make comments on it after and be sponsoring the bill. It think it is a little different with every other member, but to be actually giving comments on behalf of the ministry later and to be sponsoring the bill just does not look to be at arm's length.

Mr. Chairman: Mr. Wiseman, I am going to ask legislative counsel to comment on that.

Ms. Mifsud: The position on private bills has always been that the member who introduces it does not necessarily have to support it. If it comes down to the member having to support it, there is a real problem that these bills will not even come to this committee. There have been some bills that no one will touch because they are controversial. So our position has always been, and I understand the position of this committee has always been, that it is just a means of facilitating its entry into the House.

When they ask our office, "Who shall we get to sponsor it," I usually say, "The member representing the city or the municipality it is located in," because he or she would have most contact with that. It is just a means of getting it into the House and to this committee. As I understand it, Mr. Offer could easily introduce bills he does not then support.

1040

Mr. Wiseman: It is just that he is representing the ministry.

Mr. Hennessy: Yes. With 50 other members, could you not have got somebody else to sponsor the darned bill and let him sit up there? It looks more sensible than a guy wearing two uniforms. Thank God he is not wearing ours.

Mr. Wiseman: I just feel that it just does not look right. Today we are on camera. To see someone sponsoring the bill here and then sitting up making comments on whatever it is, just does not appear to be right when we have lots of other members from the city.

Mr. Hennessy: The judge and jury.

Mr. Chairman: Perhaps we should give Mr. Offer an opportunity to respond to that, but we are going to keep this brief.

Interjection: I could sponsor the bill.

Mr. Chairman: We want to get on with the issue before us, as opposed to the preliminary objections. Mr. Offer, did you want to respond briefly to this?

Mr. Offer: Certainly, prior to introducing the delegation, this is a matter which has been discussed previously at some length and it has been determined, as I think legislative counsel has clearly indicated, that it is not a conflict, has not ever been a conflict, and has not ever been decided to be a conflict. Rather, a member of the Legislature is used as a way to bring pieces of legislation into the Legislature without support or lack thereof.

The comments that I give on behalf of the government are on behalf of the government and, with respect to the comments we have heard today, have no bearing on whether I or any other member introduced the bill into the House. My comments are based, and shall be based, on information which I have received on the basis of briefings and discussions with particular ministries and their concerns, or lack thereof, of a particular piece of legislation. My introduction of the bill in no way, shape or form has any bearing on the comments that ministries give through myself. That has been decided and determined many, many years prior to this. As I understand it, it has been common practice for just countless years.

Having said that, I just want to clearly indicate that I, in no way, shape or form, have thought that there was a conflict of interest. This has been discussed, decided and agreed upon that there is, in fact, no conflict of interest. Period.

Mr. Chairman: If we are going to continue on this point--I now have Mr. Shymko, and Mr. Wiseman put up his hand--we are actually eating into the time of the delegation, and I do not want to--

Interjection: --eating into their time.

Mr. Chairman: Do you want to speak, Mr. Shymko? Then Mr. Wiseman on that point.

Mr. Shymko: I am concerned, Mr. Chairman, by your remark that we are eating into the time. We are discussing a major issue and one, fundamentally, that was discussed and debated for at least an hour, as I recall, some time ago. I do recall that in the past one particular parliamentary assistant to the very same ministry who had realized--and these same concerns were raised--the attempt was made that he would not present any sponsoring of bills while sitting representing the very ministry under whose jurisdiction the private bill goes, and then turning around and becoming the sponsor of a private bill and switching hats.

The attempt was made to have a back-bencher, parliamentary assistant notwithstanding. It could be a parliamentary assistant, but to another ministry not specifically related to the ministry under whose jurisdiction a private bill came. That was done on many instances. I remember, myself, sponsoring bills to avoid that conflict.

There are members of the city of Toronto who represent city ridings who

would, with no objections, sponsor the bill. I can name you a number of members of the Legislature who are from the city, or from Metropolitan Toronto if you cannot find a member who represents a city riding. This is why, normally, we have Mr. Newman, for example, sponsoring a private bill for the city of Windsor, because that is the area he represents. It would be unusual to have me sponsor a private bill from Windsor. If it is a bill from Peterborough, you would get a member from Peterborough. That is all. It avoids this whole discussion that has been rehashed and rehashed a number of times. It is simply avoiding any insinuations, or any embarrassments, or any innuendoes, or whatever. It does not put the honourable member in a situation that I am sure he does not want to be in. He does not deserve to listen to these remarks.

The answer is simple and the solution is very simple. I would suggest to the city of Toronto that we could follow the precedents we followed in the past and just get another member to sponsor the bill.

Mr. Chairman: Mr. Wiseman, did you have a comment?

Mr. Wiseman: I think Mr. Shymko has said it all. I just hate to sit here and have the parliamentary assistant, who will be making the comments later for whatever reason, sponsor a bill. As Mr. Shymko says, there are lots of people who would have sponsored it, so it would have looked at arm's length to the people who may watch in here today when we are being televised.

I think we should make a ruling some place that the parliamentary assistant, who will be making the ministry's comments, should not sponsor, for his or her own sake. As the member was saying, everything may be--and will be, I am sure--aboveboard, but I do not think it looks that way to the people who are watching.

Mr. Chairman: We have had a comment from legislative counsel. Is there anything you wish to add to that?

Ms. Mifsud: I just have a fear that bills will be associated with their sponsors. Certainly, some sponsors come in and say: "I am the sponsor, but I do not even support the bill or know what is in it." It is a procedural means of getting it into the House. I hope the sponsor of the bill is not associated with the content, because then we would have real restrictions on bills getting introduced in here. That is my only fear that I was trying to point out.

Mr. Shymko: Let me just answer that.

Mr. Chairman: Just a second, Mr. Shymko. I have another speaker.

Mr. Shymko: It may be distorting what I am saying. I am not questioning the fact that the sponsor has nothing to do with the bill. The sponsor may totally oppose the bill, for that matter. That is a perception and a standard of perception we have always maintained. The reason I am saying we should not have the parliamentary assistant sponsor this bill is not to erode that impression. Politics is impression. Politics is innuendo. Politics is what you perceive and not what is the reality.

Mr. Cordiano: Some people's politics are innuendo.

Mr. Chairman: One person at a time.

Mr. Shymko: It is not people's politics. What we should do is to maximize efforts not to give any impression that there is a different standard.

Mr. Chairman: Mr. Cordiano, you are going to have the final comment.

Mr. Cordiano: I think this whole discussion is much ado about nothing. If you have some real charges to make about conflict of interest, then make them. We are wasting a lot of time here. I am new to this committee. I just walked in.

Interjections.

Mr. Chairman: I am going to take the chairman's prerogative. We have had sufficient debate on this.

Mr. Cordiano: I do not see what you are talking about. I do not see the basis.

Mr. Chairman: We have had sufficient debate on this preliminary issue. We have a number of groups here.

Mr. Cordiano: I had the floor. I think the floor was taken away from me. I beg your indulgence to give me the floor when I have the floor.

Mr. Chairman: We have a number of groups here from Toronto that we want to hear. We want to slot them in. We have had word from the legislative counsel, who has said to us that the only purpose of the person introducing the bill, as I understand it from the practice in the past, is simply to introduce who is going to tell us about the bill. On the basis of what legislative counsel has told us, I think we should get on with the nub of this issue; that is, dealing with the issue itself.

Mr. Wiseman: Do we mean anything or do we just leave it to legislative counsel to make all the decisions around here about how we are going to run our meetings? Then we walk out and let her make the decisions, whether we approve of them or not.

Mr. Shymko: I would like to hear what Mr. Cordiano has to say.

Mr. Chairman: Mr. Cordiano, Mr. Shymko has given you the floor.

Mr. Shymko: I am not giving anybody the floor.

Mr. Cordiano: At least, someone gave me the floor. From legislative counsel's remarks, I understood there really is not a problem with this. I think Mr. Shymko was pointing out that there could be a perception that there is a conflict. Notwithstanding that, I think there is not really a perception. I think we should let Mr. Offer worry about the perceived conflict of interest. I do not think there is one.

Mr. Wiseman: He has had problems already with that.

Mr. Cordiano: That is fine. He has to worry about that.

Mr. Dean: That is great.

Mr. Cordiano: If he felt there was, indeed, a conflict of interest, he would not be sitting where he is.

Mr. Shymko: All I want to point out is that Mr. Offer has already been defended by committee members on some unfortunate incident of perception. Again, people perceive things. In the Argosy situation, some comments were made by Mr. Offer that the public misrepresented.

1050

Mr. Chairman: I want to put this in perspective. Mr. Shymko and Mr. Wiseman, if you are saying this decision should be made by this committee, if what you are suggesting is that perhaps we should have a resolution voted on as to whether Mr. Offer can sponsor this bill, it may very well be placing this entire matter in abeyance to another day. If that is what you are moving, then I suggest it be moved and let us have the committee deal with it. If not, then let us accept the advice we have received from legislative counsel.

We have to get on with this. There are a lot of people here who are interested in getting down to the merits of this bill as opposed to the comments you have made. You have made your comments; they are here. If you wish to have a formal resolution made and voted on, then please put it. Otherwise, let us get on with the proceedings.

Is it the wish of any member of this committee to make such a formal resolution?

Mr. Lupusella: A resolution on what?

Mr. Chairman: A resolution that there should be a sponsor other than Mr. Offer.

Mr. Lupusella: In the past other members of provincial parliament have sponsored bills. Besides the principle that this bill in particular is controversial--and I share the concern that has been raised previously--I would like to find out from Mr. Offer in which sense he has a conflict of interest with the bill besides being the parliamentary assistant. Can you answer that?

Mr. Offer: There is of course no conflict nor any perceived conflict. Again, as I indicated earlier, I have been requested to introduce and serve as a conduit to introduce the legislation into the House as a member of provincial parliament, and that I have done. It in no way, shape or form signifies my personal support or lack thereof for it. That is it, period.

Mr. Lupusella: Thank you.

Mr. Shymko: I have a motion.

Mr. Chairman: We need it in writing at some point before we vote on it.

Mr. Shymko: I move that this committee follow the precedent established in the past that private bills affecting a local municipality and an act respecting a local municipality be sponsored, as traditionally has been done in the past, by a member of the Legislature from the locality and the local municipality, if possible.

Mr. Chairman: I wonder if you could put that in writing so we can have it properly before the chair.

Mr. Chairman: Ms. Bryden, while Mr. Shymko is writing out the motion, would you perhaps--

Ms. Bryden: Well, Mr. Chairman, I have not spoken earlier on this point, but I do respect the position as set forth by legal counsel that the citizens of Ontario should have the right to bring private legislation into the Legislature and that any member can sponsor that private legislation in order for it to receive first reading, regardless of whether he supports it or not.

The other thing I would like to point out is that, to my understanding, Mr. Offer is not the parliamentary assistant to the Ministry of Municipal Affairs, which is the ministry concerned here, but to the Ministry of Consumer and Commercial Relations. Is that correct?

Mr. Offer: That is correct.

Ms. Bryden: In this case, he is not dealing with a ministry for which he has any parliamentary assistant responsibility. He is acting as any other member sponsoring a private bill, and I do not think it should be restricted to a member from the municipality concerned. There will be difficulty in obtaining a sponsor in that case.

Mr. Chairman: Mr. Shymko, you seem to still be writing.

Mr. Shymko: No, I am fine.

Mr. Chairman: Have you embellished on the--

Mr. Shymko: Do you want me to present it again--the reworded motion?

Mr. Chairman: Yes, please.

Mr. Shymko moves that any private bill presented before this committee follow past precedence that, should the bill relate to issues affecting the specific local municipality, the sponsor of the bill be preferably a member of the Legislature who represents a constituency from that local municipality, as has been the tradition in the past.

The committee divided on Mr. Shymko's motion, which was negatived on the following vote:

Ayes

Dean, Shymko, Wiseman.

Nays

Bryden, Cordiano, Haggerty, Lupusella, McKessock.

Ayes 3; nays 5.

Mr. Chairman: Mr. Offer, I wonder if you would proceed to introduce the presenters.

Mr. Offer: It is my pleasure to introduce the applicants for this particular bill. To my immediate left is R. Scott James. He is the managing director of the Toronto Historical Board. To Mr. James's left is Patricia

Foran, who is the deputy city solicitor. To the left of Ms. Foran is his worship, Mayor Art Eggleton of the city of Toronto, and to his worship's left is Councillor Ron Kanter, ward 5.

Without further ado, I would, as is my responsibility as a member of the provincial parliament, give the floor over to the applicants to present their particular matter.

Mayor Eggleton: Thank you very much for this opportunity. I might add that we are also joined by Alderman Michael Walker, ward 10.

I do not want to belabour the procedural point you were on, but I just want to note that it has been our custom to ask a member of the Legislature who is a back-bencher, a member of this committee, from the city of Toronto and from the government side, regardless of who forms the government. As you will appreciate, that somewhat restricts. At that point in time, the time we asked for Bill Pr57 to be introduced, there was no member in the back benches of the government side on this committee from the city of Toronto. I just wanted to point that out for information.

Second, if I might, while I have been sitting here while you were debating procedure, I got a telegram from the Prime Minister of Canada, from Venice, advising me that the world leaders of the economic summit have accepted to come to Toronto a year from now for their next meeting. That is something I am very happy to pass on to you for information.

Getting to the point at hand--

Mr. Chairman: This is called a commercial, is it, Mayor?

Mr. Cordiano: The Olympics come after.

Mayor Eggleton: Yes, the Olympics come after that.

Getting to the matter at hand, Bill Pr57 and our request, first of all, the staff have decided not to leave it totally to the mayor to convince you here about all the benefits of Pr57. They decided to produce an audio-visual of it, and if I may beg your indulgence for five minutes, it will present our case and I will have just a few comments to make after that, if that is okay, Mr. Chairman.

The committee viewed an audio-visual presentation at 11 a.m.

1108

Mayor Eggleton: Mr. Chairman, the legislative tool we are asking for is the opportunity to be able to turn down a demolition permit prior to the issuance of a building permit. This would be complementary to the Ontario Heritage Act. The Ontario Heritage Act allows us, only after a 90-day period of making a decision, an additional 100 days in which to prevent the demolition. That has not prevented demolition in many cases of buildings where there was no plan to build anything immediately. They just become parking lots, a rubble area. We would like the opportunity to be able to sit down and work with the owners of these properties to show that, in fact, these buildings could be integrated into a new development.

Confederation Life, one of the buildings that was shown in the film, down at Richmond, Yonge, Queen and Victoria streets is an example of where we

have been able to work with them. They are restoring the building and building a new building beside it, so they are able to get their density. They are able to get their full, highest and best use out of the land but, at the same time, preserve the historic structure.

Fortunately, they have been quite willing to sit down and talk about it, but there are others who have not been willing. There are other projects that I particularly have some familiarity with, the Bond Street church, Cooke's Presbyterian Church, a number of others and Jesse Ketchum Hall, which Councillor Kanter knows quite well, where we just ran up against a wall in terms of attitude about this and they said, "No, we do not see any possibility of that." That is all before they really have any plans formulated, before an architect and a planner have an opportunity to show them the possibilities of integrating the two.

1100

We would at least like to be able to get to that stage. It could well be that in the end we will not succeed and that the rights of the property owner will prevail. We understand that, but we at least want the opportunity to be able to say no to a demolition permit until they get a building permit.

That legislation is very similar to what is now provided in section 33 of the Planning Act, which the city of Toronto and other municipalities in the province use; that is to say, we are not going to allow the demolition of a residential building until there is a building permit for its replacement. We are not going to allow the land just to become vacant, a parking lot or whatever. We need housing, so we want people to have a plan and a building permit to put a new building there before they demolish the old one.

That type of legislation is what we are talking about here because we need more than just the 180 days the Ontario Heritage Act provides. We have ample demonstration of that, as you can see in the video. We have a record of many properties on which we have not been able to say it. This would give us an opportunity to do that and we would appreciate your support for Bill Pr57.

I recognize your time constraints. We do not want to belabour it. There are a number of the people at the table here with me. I will ask whether any of my colleagues have anything they want to quickly add.

Councillor Kanter: Mr. Chairman, perhaps I might.

Mr. Chairman: Proceed with your presentation, Mr. Kanter. We will have the questions of members after.

Councillor Kanter: The point I would like to make in adding my support to the bill the mayor is supporting is that the city of Toronto now has the power to delay the demolition of historic buildings, but most of the bargaining power is on one side, on the side of those who want to change, demolish or perhaps build something new.

I am all too familiar with some examples in my ward--I represent the midtown part of Toronto--for example, Ketchum Hall, a building built in 1848 by someone closely associated with the public life of Ontario in the public school movement, the temperance movement and in a number of ways. We had the power to delay that demolition, exercised that power and ultimately the applicant simply tore it down. It is today a parking lot. There are several other examples in my ward that are under threat: Mount Sinai Hospital in the

Yorkville area and the University Theatre on Bloor Street.

We are not suggesting that the municipality have the power to stop demolition for ever and to require people to keep historic buildings in use. What we are asking for is the power to stop demolition until there is a viable alternative, until there is something else that will be built on the site. That is all we are doing.

In my view, it is something that strikes a fairer, more equitable balance. It will enable the list in appendix D, of heritage properties that have been preserved and are used and are sometimes added to in a very positive fashion, to become much longer. It will eliminate the list of the substantial number of properties now threatened with demolition, not to be replaced with something that is income-producing or revenue-producing, but just simply demolished. We will preserve our historic buildings, use them and integrate them with new construction. The purpose of the bill is to strike a fairer balance between the public interest and the interest of the land owners. That is the purpose of the bill and I hope your committee will adopt it.

Alderman Walker: To show we have done something creative, in the last few years, since I have been on city council, we did that rewarding with Scotia Plaza. In effect, we rewarded the developer of the new building for preserving the old building and I think we are getting a far better development. Some people think we gave too much density. They do not recognize we had to give extra density to preserve the old Bank of Nova Scotia building that is a designated heritage building. The one that is up before us now is the Toronto Stock Exchange.

This city is an extremely desirable place to build and a lot of developers will, under the present rules, initiate a demolition before they actually have a viable alternative or a building permit. They just wait us out through the 180-day delay we can have now. If we get the amendments we are asking for in this legislation, we will be on a much more equal footing to bargain with these developers to preserve the buildings. Also, they can get what they want, but they cannot clear the lot, sit on the property until the economics they want exist and then come back and build something later without having this building sitting in their way.

As the mayor said, it is similar to what we have now. You have to have a building permit in a residential area when you want to replace or demolish a residential unit. I think there is a parallel. I think we have shown that we are good bargainers in preserving heritage buildings. The only thing is that sometimes the developers are not very good. We want to be on a more equal footing with those types of developers, to preserve buildings such as the Jesse Ketchum schoolhouse and the old stock exchange.

Interjection: Mr. James, managing director of the Toronto Historical Board.

Mr. James: I am joined here today by some members of the Toronto Historical Board and some of the Toronto Historical Board staff. I would be happy to answer questions, but first I would like to take a brief opportunity to reiterate some of the points that have been made quite eloquently by the mayor, Councillor Kanter and Alderman Walker, and very well, I think, by the video we presented to you.

Heritage preservation has enormous importance for us all, cultural in that it enhances the quality of urban life, and as we are learning more and

more, it has economic benefits, particularly in the areas of employment, energy conservation and tourism, among others. The importance of heritage preservation has been recognized by the city for many years now. The official plan has had built into it for 20 years or so the requirement that all measures be taken to preserve heritage buildings and the province itself has recognized, since at least 1975, the importance of the Ontario Heritage Act.

However, it is clear that the Ontario Heritage Act is not working to prevent demolitions. The city has previously requested, on at least three occasions, amendments to the Ontario Heritage Act to accommodate these flaws. The Ministry of Citizenship and Culture is now actively reviewing the legislation and all its heritage policies, but we are told this is going to take a period of from two to three years. Toronto needs something now. We have already lost 12 of our designated buildings. Twelve more are under active threat and we are in a period of intense development activity, which indicates to us that we can expect more to come under threat.

You have already seen what these buildings are being replaced by. Eight of the 12 that have been demolished have been replaced by parking lots. That is exactly because at the time of demolition there has been no plan for development. As you have already heard, the Planning Act already allows city council to refuse demolition of residential buildings until a building permit is issued and the city wishes to extend this protection to its designated heritage buildings. This bill will provide this essential protection, pending revisions to the Ontario Heritage Act.

The request for this amendment by going the route of a private bill was the suggestion of the office of the Minister of Citizenship and Culture (Ms. Munro). In its present form, it also takes account of all the concerns expressed by the Minister of Municipal Affairs (Mr. Grandmaître). First and foremost, the bill will ensure that the city has the opportunity to sit down with an owner while a heritage building is still standing and explore all possible ways of saving it and incorporating it into future plans.

In conclusion, I ask for your committee's support of this legislation on behalf of a concerned public.

Mr. Chairman: Mr. Mayor, are there any other--

Mayor Eggleton: No, I think that is it. Pat, you have nothing to add? The deputy solicitor has something to add.

Mr. Chairman: All right.

Ms. Foran: I do not know whether you wish now to go through the sections of the bill so that I can explain what the city is looking for or whether we should hold that until you have heard further deputations that were scheduled earlier.

Mr. Chairman: I understand there are a number of amendments as well. I think perhaps before you do that, I am going to ask Mr. Offer, on behalf of the government, to comment. All members should have copies of the amendments. They have been circulated. That might be helpful. The only difficulty I see is that we have another delegation that was slated for 11 o'clock. I am wondering if, in fairness, we could canvass whether--we are sitting this afternoon--the next delegation, if it is here--stay here if you wish, but if you wish to come back this afternoon that would allow us to proceed in that fashion. Perhaps somebody from the next delegation could identify himself.

1120

Mr. Keefer: I am Alec Keefer, Architectural Conservancy of Ontario Inc., Toronto. It was 11 o'clock (inaudible). I will appear this afternoon--

Mr. Chairman: I was just doing that to allow you to go and do something perhaps more beneficial.

Mr. Keefer: No, this is where I want to be.

Mr. Chairman: All right, fine. Is the committee content with that? I think it would be helpful to have the city solicitor go through the bill with us, with the amendments, to make us all cognizant of what the nature of the bill is. I think we all have a pretty good idea but that would help us.

Ms. Bryden: I did not understand. You said you were going to ask Mr. Offer to speak first. Should we not have the city solicitor's statement first as to what are the main sections to be amended or at least what the main thrust of the bill is?

Mr. Chairman: As I understand it, Ms. Bryden, she was going to go through the bill with us. Before we did that, I thought we would have comments from the government, if there are any. We would then try to have her deal with the bill as well as the amendments so that we will know exactly where we stand and then members can ask questions.

Ms. Bryden: Should we not have her summary before Mr. Offer--

Mr. Chairman: From what I understood, the solicitor was not going to give us a summary. She was going to take us through the bill. I think before we do that we should know the comments of the government, whatever they are, and then we can deal with the other. Is that my understanding, that you were going to go through the bill?

Ms. Foran: I can take you through the bill but it is rather complicated and it will take some time.

Mr. Chairman: As a result of the moving of the other delegation, we have till noon. I think we are going to proceed that way, Ms. Bryden. We will have Mr. Offer's comments and then we will go back to the solicitor and she can take us through the bill.

Mr. Hennessy: One question: Are there other people on the other side of the fence? Are both you people lined up on one side and they agree? I think I remember a few years ago there was a controversy with regard to this with another bill.

Ms. Foran: Yes.

Mr. Hennessy: Are we going to get another--

Mr. Chairman: We are going to hear from a number of sides, Mr. Hennessy. That is why we have two days slated for--

Mr. Hennessy: I thought so. It was too good to be true.

Mr. Chairman: Mr. Offer, will you perhaps give us any comments the government may have on this matter?

Mr. Offer: Prior to giving comments, I would like to introduce the people here with me today. To my immediate left is John Chipman, who is the general counsel for the Ministry of Municipal Affairs. To Mr. Chipman's left is Sari Teitelbaum, who is a solicitor with the Ministry of Citizenship and Culture. Just behind Ms. Teitelbaum is Linda Gray, who is the policy adviser for the Ministry of Municipal Affairs. Beside Ms. Gray is Pam Craig, who is the supervisor of the architectural and heritage planning unit for the Ministry of Citizenship and Culture.

The proposed bill follows closely the provisions of the Ontario Heritage Act. The Ministry of Citizenship and Culture has announced a review of the Ontario Heritage Act over the next two years, but has agreed to consider the city's proposal at this time to forestall the loss or potential loss of important heritage structures during the review period.

The ministry was concerned that the city not propose a completely new direction in its legislation to avoid setting a precedent that could tie the ministry's hands in examining all possible options in its review. You will note, and we will have, based on ongoing discussion between the ministries involved and the city of Toronto, a series of amendments that come to grips with some of the concerns of the different ministries.

The purpose of the bill, as has already been indicated, is to add one more step to the existing process for dealing with the applications for demolition of heritage buildings and to make defiance of the provisions uneconomical for a developer. At present, the Ontario Heritage Act allows the city to stall demolition for 180 days, during which time the city may choose to purchase the structure or try to persuade the owner to incorporate the structure into redevelopment plans. After expiry of that delay period, the city must issue a demolition permit. The extra step proposed in the application process is to require the owner to have a building permit and city-approved development plans before any demolition takes place.

The city has, as I have already indicated--

Mr. Chairman: Just a second; is that delayed 180 days?

Mr. Offer: No.

Mr. Shymko: The change proposed now is that they would have to have an alternative plan or option. Can you describe what that means? Can you give us an impression?

Mr. Offer: When we get into some of the discussion of the bill, they will get into that in greater detail. Perhaps I might continue with respect to the fullness of the government's comments.

Mr. Shymko: Okay.

Mr. Offer: Over the past years, there has been growing dissatisfaction with the present provisions of the Ontario Heritage Act. The Ministry of Citizenship and Culture has decided to take stronger measures to effect the preservation of heritage buildings and areas, but intends at this time to make a long-range study to determine the appropriate measures. We believe, and it is indicated, that it might take in the vicinity of two to three years to come up with a full policy with respect to this matter.

We indicate to the applicants that because of the ministry's policy

process, it might be necessary for the city to review this particular application at a later date, if the committee has decided to pass it into legislation. We just want to make that publicly known to the mayor and the representatives of the city.

Mr. Chairman: For the purposes of Hansard, they are nodding yes.

Mr. Offer: There has been a great deal of discussion at the government and city levels with respect to this particular application. From that discussion, a number of amendments have been agreed upon, which are going to be moved at the appropriate time. With respect to the bill before committee members and the amendments, which I understand from the clerk have been circulated, we are recommending this bill not be opposed.

The government supports the intent of the bill to encourage developers to incorporate irreplaceable heritage structures within redevelopment plans and to avoid premature demolition to protect the future saleability of the land. The size of the fine as incorporated in the act is unusual. It should be carefully considered. However, the amendments we are going to introduce address the government's main concerns with respect to this legislation.

Our major concerns were: The contravention of the bill's provision has been made an offence subject to the judicial process with the possibility of appeal rather than as a council-imposed fine with no appeal. That, through amendment, has been agreed to. Provisions have been added to protect owners who find they cannot rebuild within the two-year period, and appeals to council and the Ontario Municipal Board have been added through amendments. The penalty provisions are now consistent and apply to those who demolish without obtaining proper permits as well as those who fail to rebuild. Last, the city is required to act on an application within 90 days.

With respect to these matters, they have been addressed through amendments, and accordingly with respect to the bill and amendments, the government does not oppose this application.

Mr. Lupusella: I have a question. How many heritage buildings do we have in Toronto? I am sure you made a survey of that. How many buildings are we talking about in Toronto?

Mr. James: There are approximately 300 buildings presently designated under the Ontario Heritage Act in the city of Toronto.

Mr. Lupusella: And the ones that have been developed on top of that previously in the past few years?

Mayor Eggleton: Do you mean demolished?

Mr. Lupusella: No, the ones that have been preserved from the past.

Mr. James: That includes all the buildings that are designated and presently exist. That does not include the buildings that have been demolished.

Mr. Lupusella: Okay.

Mr. Chairman: Mr. Lupusella, Mr. Offer has not yet finished, although he thought he was. Perhaps we could let him finish. I also want to reiterate--perhaps you were not here--that there was a consensus that when we get to the questioning, it will be done by one question from each caucus.

1130

Mr. Lupusella: I apologize for that. I had the impression our colleague was finished.

Mr. Wiseman: One questioner.

Mr. Chairman: I am sorry. I forgot the "er." One questioner from each caucus. We wish we could do that, actually.

Mr. Offer: I am sorry; I indicated I had finished my comments. Sari Teitelbaum, the solicitor from the Ministry of Citizenship and Culture, also has some comments directly from the ministry.

Mr. Chairman: I should add as well that we are trying to get the heat controlled in this room. Mr. Dean is not trying to hide; I think he is cold. I am sure there are others who are in a similiar state.

Mr. Haggerty: Is Mr. Offer finished?

Mr. Chairman: We are going to hear more from staff now.

Mr. Haggerty: Okay.

Ms. Teitelbaum: I would like to read a letter for the ministry's statement. It is a letter drafted by the Minister of Citizenship and Culture (Ms. Munro) to the Minister of Municipal Affairs (Mr. Grandmaître). It states:

"On January 15, 1987, I wrote you concerning the above-noted bill. At that time, I indicated that my ministry did not oppose Bill Pr57 and had no objections to the legislation going ahead.

"Since then the bill has been redrafted and my ministry continues to have no objections to this legislation given that it promotes heritage conservation.

"As you know, however, my ministry is currently undertaking a review of its heritage policies, programs and legislation. This review may result in changes to the Ontario Heritage Act although, at this time, we do not know what they may be.

"My ministry considers Bill Pr57 as an interim solution to the city's current problems concerning the demolition of heritage structures. To ensure consistency among pieces of legislation dealing with heritage, it may be necessary for the city of Toronto to have Bill Pr57 amended once my ministry has completed its review of the Ontario Heritage Act."

That concludes the ministry's statement.

Mr. Shymko: Could you repeat the last sentence please for the record? We missed it.

Ms. Teitelbaum: "To ensure consistency among pieces of legislation dealing with heritage, it may be necessary for the city of Toronto to have Bill Pr57 amended once my ministry has completed its review of the Ontario Heritage Act."

Mr. Shymko: My understanding is that whatever we pass here is contingent upon any amendment to the present Ontario Heritage Act, which will subsequently demand--

Mr. Chairman: No.

Mr. Shymko: Yes, that is my understanding--which will subsequently demand amendments to what will be passed in this private bill.

Mr. Chairman: It is grandfathered.

Mr. Shymko: That is my clear understanding.

Ms. Teitelbaum: There is a concern that there should be consistency among various pieces of legislation dealing with heritage conservation.

Mr. Shymko: This bill, if passed, will still be subject to the Ontario Heritage Act, which is presently being reviewed and which will be amended, and this bill will have to be amended to comply with it.

Ms. Teitelbaum: It may not have to be amended. The Ministry of Citizenship and Culture is requesting the co-operation of the city to review its legislation if it is necessary. It may not be necessary.

Mr. Shymko: So that we are clear on how we understand the minister's letter, could we have copies of that? I think we should get copies of this letter. It is fundamental.

Mr. Offer: There is no problem.

Mr. Chairman: It has been read into the record. Copies have been made available to the clerk.

Mr. Shymko: I would like to have a copy. I make a motion that all members of the committee should have a copy.

Mr. Chairman: You do not need a motion. We will get you a copy of it. The clerk will take steps to do that.

Mr. Shymko: What is the date of that letter, by the way?

Ms. Teitelbaum: June 9, 1987.

Mr. Shymko: Is that not today?

Ms. Teitelbaum: Yesterday.

Mr. Chairman: May we proceed? I gather that is the conclusion. I would like to proceed now to the solicitor to allow her to take us through.

Mr. Wiseman: While we have the solicitor here, may I just ask one quick question? It was mentioned it will be two to three years before we will see any changes. What wheels have you put in motion? Do you have the Ontario Heritage Foundation people bringing in recommendations? What group is looking after that? Three years from now seems a long time.

Ms. Teitelbaum: The ministry is presently undertaking a review of its policies, programs and legislation relating to heritage conservation in

the province. There is a series of public consultation meetings taking place now. The ministry has completed approximately 20 of 26 of those meetings, or thereabouts. The meetings are taking place in various municipalities in Ontario and the ministry is inviting comments from municipalities, parties and bodies interested in heritage conservation in the province.

Mr. Wiseman: What is the cutoff date for that?

Ms. Teitelbaum: I think the public consultations will be completed by the end of June. The ministry has asked for written submissions from interested parties by the end of July. The information that will have been gathered from the public consultations, as well as the written submissions, will be examined and reviewed by the ministry, at which time the legislation itself will be examined with a view to amendment.

Mr. Wiseman: It would appear that all the written submissions and the hearings will be terminated or finished by the end of July. Then your review of this is two to three years down the road. I do not think we have moved that slow around here.

Ms. Teitelbaum: The two- to-three-year period--the minister made a statement of closer to two years, rather than three, in fact. This is my understanding. The date of two years is running from the date of the announcement, which was approximately six months ago.

Mr. Wiseman: If this is such an important issue--it seems to be to the city of Toronto and it must be to other areas. You have all this before you. It looks like a long time. If we are going to have amendments in there or have changes that might effect the city of Toronto, or whoever else might bring through a private member's bill like this, why can you not put it in the fast track and get it done and we will not see all this special legislation coming through?

Mr. Shymko: Of the 26 consultative public meetings, 20 have been completed, approximately--

Ms. Teitelbaum: Approximately.

Mr. Shymko: The written submission will be completed by the end of July.

Ms. Teitelbaum: Yes, I understand so.

Mr. Shymko: The public consultative process will end in effect by the end of July. Is that my understanding?

Mr. Chairman: Mr. Shymko, with respect--

Mr. Shymko: My question is: Have there been public presentations and will there be written submissions from the city of Toronto organizations?

Ms. Teitelbaum: Yes, the city of Toronto is entitled to make--

Mr. Shymko: Has the city of Toronto--

Ms. Teitelbaum: The meeting with the city of Toronto has taken place.

Mr. Shymko: The city of Toronto has already made its presentation at a meeting before the ministry?

Ms. Teitelbaum: Yes, the city of Toronto made a presentation at that meeting.

Mr. Shymko: When?

Ms. Teitelbaum: Well--

Mr. Chairman: Excuse me, Mr. Shymko. I am going to take the prerogative of the chairman. It may take three years for us to get through the Toronto bill if we continue to ask questions about things that do not relate to the Toronto bill.

Mr. Wiseman: I just wonder why we need it when we are so close to being finished.

Mr. Chairman: Well, it is not.

Ms. Bryden: Mr. Wiseman asked most of my question, which was: In the letter of June 9, the minister does not give any predicted date when his bill will be available. It is just a long process of revision. I question whether it is a good idea to cut off hearings at the end of the summer vacation months, when a lot of municipal councils do not even meet. However, this is something by the by. It does indicate the great importance of passing this interim legislation as soon as possible. Judging by the possible delays in finalizing a provincial bill, it could be in effect for two to three years. It is very important to have it in place during those years.

Mr. Chairman: Perhaps we could move to the solicitor. If you would be good enough to take us through the legislation--

Mr. Shymko: I still have a fundamental problem because it will effect my questioning and my understanding. It relates to the letter from the minister that has just been read. It says, and I will read the sentence again, "...it may be necessary for the city of Toronto to have Bill Pr57 amended once my ministry has completed its review of the Ontario Heritage Act." Our question is related to the words "completed its review." Is it my understanding that the completion of the review is the completion of the public consultation process, or is the completion of the review some time after the public consultation process has ended?

Mr. Chairman: Mr. Offer, very briefly, please.

Mr. Offer: Basically, this review was commenced by an announcement of the minister on, I believe, July 10 of last year. It was an announcement that wanted public consultation across the province to hear from concerned individuals with respect to heritage structures, heritage areas, and to hear from them how these structures might best be able to be protected, while at the same time not forestalling any development of the areas. This has gone on now for almost a year. I had indicated and it is the estimation--although of course it is not bound in stone--that it would take approximately two to three years from the date of announcement to have legislation that comes to grips with the concerns of those people across the province.

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Right now that is in process. We are almost one year into that process. The position of the Ministry of Citizenship and Culture with respect to this legislation is that it has not come out in opposition to this bill, notwithstanding the ongoing process, because they do not want the loss of time to forestall the loss of important heritage structures.

That is certainly within the hands of each of the committee members, however they wish to vote on this particular application. It is the position of the ministry that it wants to make it very clear to the members of the committee that it does not oppose this legislation on the basis of an ongoing consultative process throughout the province. As such, they have gone into much communication and consultation with the city. The result has been certain amendments that seem to come to grips with the ministry's concerns and that is why it does not oppose the legislation.

Mr. Chairman: I am glad I did not ask you for a long explanation, Mr. Offer. We are going to move to Ms. Foran because we are getting off the track here and we are going to be backing people up, so we will move on, Ms. Foran. I would like you to take us through the bill itself for the benefit of the committee, and perhaps interleaf the amendments if you can. That will help us as well.

Ms. Foran: The purpose of the legislation is to correct what has caused a problem in the city of Toronto in respect to the Ontario Heritage Act. The Ontario Heritage Act came into force in 1975. Almost immediately, the problem became apparent in the city. If a designated building was to be demolished, the owner of that building would come in, apply to the council and the council would refuse permission. Under the act, the 180 days would go by. The owner would sit back, do nothing and at the end of 180 days the building could legally be torn down.

This problem first was discussed in the city in 1976. At that time, the city council wrote to the ministry. We tried to get the act amended. The position was that it was a new act; let it get shaken down a bit and we would see what the problems were. The problem arose again in 1978 when another building was being demolished. There was the same answer, "We will look at the act." The problem arose again in 1980 and again in 1984. So we have been up four times asking for general legislation.

We also came forward in 1981, asking for special legislation. It was somewhat different from what we are looking at today, but we did ask in 1981. Again, we were turned down, at that time on the basis that the ministry was reviewing the act. We know that the ministry is reviewing the act. In the meantime, buildings are being threatened with demolition. We have now lost 12 buildings in the city of Toronto. Eight of those 12 sites are vacant, either used as parking lots or just vacant.

If we had got the amendment in 1976, we would have at least those eight buildings standing and that is why we are here today. We know that the act is going to be amended, or we hope it will be. The council has been made aware of the position of the ministry that if, when the new amendments come forward, there is an inconsistency between the City of Toronto Act and the Ontario Heritage Act, it will have to be reviewed, repealed or whatever has to be done. The council is aware of that. I have put in a very strong letter from the Minister of Municipal Affairs to that effect.

What we are saying is that we need the legislation now to protect us between today, or when the legislation is passed, and when the Ontario Heritage Act finally is amended and comes into force, after 11 years.

Mr. Wiseman: Can I ask for clarification on what the solicitor said? You mentioned you lost eight--

Ms. Foran: We lost 12 designated buildings, I understand, and eight of the sites are vacant, either used only as parking lots--

Mr. Wiseman: The way you said that, if this legislation were in place, the developer would not have been able to go ahead with those eight as if--

Ms. Foran: Well, those eight--

Mr. Wiseman: If he were not willing to move, if you did not have these discussions and convince him that he should incorporate it in a new building, that you told him not for ever--I hope that is not the case.

Ms. Foran: No, but at least we would have had a chance to discuss the situation and to try to integrate the old with the new, which is the purpose of this legislation. We would have had a chance to see what he proposed to do because we would have seen the building permits. None of those have building permits, so we do not know what is going to happen at the present time other than a parking lot or a vacant lot.

What we are saying in the new legislation is that we will try to work with the developer to integrate the old and the new. We will at least require that the developer put his mind to what is going to be put on the site before he tears the building down. Simply tearing down a building that can never be replaced in the history of Toronto and putting in a parking lot or a vacant lot is the very problem we are trying to correct.

The only way we can see to do that is to say, "When you have a building permit, when you have waited the 180 days required by the Ontario Heritage Act, then legally you can demolish, but we want to know what you are going to do with it." The only way we can see to have a concrete plan is to require a building permit. Then we know what is going to be built there and we know if something can be integrated. Until you have some plans to see how the site is to be developed, you cannot tell whether the new building can also incorporate some of the old building; maybe not all of the old building but at least some of the historically significant portions.

Mr. Chairman: Ms. Foran, as we continue through the act I think it will become apparent from the--

Mr. Shymko: One point of clarification, because--

Mr. Chairman: Mr. Shymko, if I give you a point of clarification, then in fairness to the others--let us hear Ms. Foran and then we will have our questions. I am sure we will have full and ample discussion at that time. Go ahead, Ms. Foran.

Ms. Foran: As I said, we have been trying since 1976 to get the act amended. In 1984, it was decided that perhaps we should come forward with special legislation, pending the new act, and that is what the act that is before you today tries to do. Basically, at any time council is considering an

application under section 34 of the Ontario Heritage Act "to demolish or remove a building or structure" on a designated property, council may refuse that application and prohibit any work being done in respect to the demolition or removal, until such time as the owner has obtained a building permit and 180 days have elapsed from the date of council's decision.

Council, when an application comes forward, must make its decision within 90 days after the receipt of the application or such longer period as council and the developer may agree. Council must give a notice of its decision to the applicant, the owner of the building. If it fails to do so, then council is deemed to have consented. So council must make a decision. It must give notice to the owner as to what that decision is.

Where council has decided to refuse the application under the proposed legislation and under section 34 of the Ontario Heritage Act, the owner cannot demolish or remove or do any work or allow anything to be done in respect of the demolition until he has a building permit that will show what will go on site when the building is demolished, and 180 days have elapsed. Similarly, where council, prior to the coming into force of this act, has refused an application under the Ontario Heritage Act and the designated building is still standing, the owner cannot demolish or remove such building until he has obtained a building permit and 180 days have elapsed. There are some buildings that fit within that category.

Mr. Chairman: That is where retroactivity--

Ms. Foran: Not retroactivity, but it covers buildings immediately it comes into force.

Mr. Chairman: Go ahead.

Ms. Foran: Where council refuses an application under the act, or where, prior to the coming into force of this act, council has refused an application, and the owner subsequently gets a building permit and the 180 days expire. Then the owner can demolish the building, but he must, within two years, build a new building and substantially complete that new building on the site. There is also, under the Ontario Heritage Act, the authority to designate heritage conservation districts and the same rules would apply in heritage conservation districts. We have two of those in the city today.

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Now, where a person who has been given a permit to demolish but, at the same time, is given the condition that he must complete a building within the two-year period, finds out that it is just not possible to do so--either because it is not feasible on economic or any other grounds or he just cannot do it--that person can come back to the council and ask either for the council to extend the two-year period or ask council to relieve against that condition that a new building be built.

When council deals with that further application, there is an appeal to the Ontario Municipal Board and the OMB can either extend the time or can relieve against the requirement to build and the decision of the OMB is final.

Mr. Chairman: Those two latter points you have made are in the amendments.

Ms. Foran: They are in the amendments, yes. They arose out of

subsequent discussions with the staff of the various ministries, resulting from the minister's letter to the council on January 29. That is basically the gist of the bill.

Then we have a penalty provision which provides that where a person supplies false information in the application, the maximum fine upon conviction is \$10,000 or imprisonment for a term of one year, or both. In the case of a corporation, the maximum penalty is \$50,000.

We have a further penalty provision. Again, this arose out of further discussions with the ministry, because the original first reading bill did not read this way.

Where a person demolishes or removes a designated building or does any work or causes any work to be done in the demolition of a designated building without the consent of the council, or where a person demolishes or removes a designated building where council has refused that application and the person has not got a building permit or has not waited 180 days, or where a person fails to complete the new building within two years or the two-year period is extended either by the council or the OMB, then there is a maximum penalty of up to \$1 million or a penalty of imprisonment for a term of one year, or both.

We have heard some indication that the fine is very substantive, and we agree that it is. It is in the discretion of the courts, but, likewise, there is no way we can ever recover a designated building that is demolished. It can never be replaced, so we had to have some penalty which would reflect the severity of the action of demolishing a part of our heritage. Basically, that is what the act does.

Mr. Chairman: All right. We will go to the members of the committee, recognizing our consensus at the outset that there would be a questioner from each caucus. We will start from my left with the third party, then the Conservative Party and then the Liberal Party.

Ms. Bryden: These penalties on pages 6 and 7 seem very light: \$10,000 or imprisonment for a term of not more than one year is fairly substantial for an individual, but for a corporation the maximum is \$50,000 and there is no mention of imprisonment of a chief executive officer or any person connected with the corporation. Was that in the original bill or is that part of the proposed amendments?

Ms. Foran: No, that was in the original bill. That is for someone who provides false information. Hopefully, we would find out about that false information. The real penalty is in the following section, which deals with where they demolish a building when they are not legally entitled to do that.

Ms. Bryden: That would have applied, perhaps, to something like the west end station that was demolished, apparently without anybody being able to stop it before it was demolished. I think it was by the Canadian Pacific Railway.

Ms. Foran: I do not know whether I want to get into specific situations. I do not have all the facts here, if you want some specific information on a specific demolition. It would apply where anyone demolishes a designated building without the consent of council, where he removes a building before he gets a building permit where council has refused that application, where he does not wait the 180 days or where he fails to complete

the new building within the time frame. Those are the cases where it would apply.

Ms. Bryden: Did you discuss a jail penalty for a corporation or an executive thereof?

Ms. Foran: Yes, we do have imprisonment for a term of one year for any person who violates the law.

Ms. Bryden: "Any person"--does that mean a corporation too?

Ms. Foran: It is very difficult to put a corporation into prison.

Ms. Bryden: It has been done in environmental bills.

Ms. Foran: Yes, it does apply to every director or officer of the corporation.

Ms. Bryden: Just one final question. Why does the consent of the Minister of Citizenship and Culture (Ms. Munro) have to be given for any prosecution?

Ms. Foran: That has now been deleted from the amendments. We put that in our original draft, because that is a requirement of the Ontario Heritage Act if you are going to prosecute under that act. In subsequent discussions with the ministry, we decided we would take it out.

Mr. Chairman: Who will be the questioner for the Conservatives? Mr. Shymko?

Mr. Shymko: Thank you for your selection.

Mr. Chairman: That is quite all right. I always pick the best looking guy in the room.

Mr. Wiseman: There is lunch, Yuri.

Mr. Shymko: The decision was made by my colleagues.

Mr. Chairman: All right. Wise choice.

Mr. Hennessy: I did not get the cheque yet.

Mr. Dean: On the condition that the questions be brief.

Mr. Shymko: At the onset, I would like to say that my colleagues feel very strongly about the protection of buildings. We are very concerned about that. We are also concerned about the aspect of consistency and the aspect that we would have wished the bill you are presenting to be an amendment that would remain permanently, so you would not have to come back in six months or a year and start redrafting and changing it again. That is what all of us prefer, through either private bill legislation or government legislation, to look at changes that are consistent and that apply universally to the whole province.

"Plus ça change, plus c'est la même chose" is a French expression. We are concerned that for 11 years--and this is a totally nonpartisan comment--the past administration dragged its feet. The present administration

is dragging its feet on this issue in terms of the government of Ontario. We share with you the frustration, since 1976, to have those changes and that problem resolved.

You have fought for 11 years. You have provided leadership in this province in rectifying this, and I congratulate the city of Toronto, Mayor Eggleton, the mayors before him and the council in this work. I would not want this situation today to be perceived that someone is playing some kind of a game to have the city of Toronto, this municipality, set the direction of provincial legislation and of an amendment at the provincial level of the act. Normally, it has always been that the province would set the direction, hopefully would go through public hearings--that is being done--and the municipalities would comply. This is my concern.

My question is, if you have waited so patiently for 11 years, could you not wait one more year? My timetable understanding is that it is two to three years. There is a difference when you say, "Well, two to three years." It is already a suggestion that is somehow not clear. Two years will be by July 1988. One year has already elapsed. Public hearings are being completed by the end of June. Written submissions will be completed by the end of July. It is quite possible, with your private bill, to pressure the province and the minister to more speedily conclude those deliberations and to have a bill which I would prefer. All of us would prefer to have a bill that would consistently apply to the entire province.

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Is it my understanding that in 1976 your suggestion had been that there be an amendment to the Ontario Heritage Act?

Ms. Foran: That is right.

Mr. Shymko: Has this been a consistent request and route that you have followed since 1976, right up to the time when we decided to go the route of a private bill?

Ms. Foran: Yes. The city council authorized an application to amend the Ontario Heritage Act in 1976, 1978, 1980 and 1984. In that period of time, we have tried to resolve it. We knew there were discussions as to amending the act. Again, in 1980 it was a private bill. Again we were promised that the act would be amended. In the meantime, we have lost 12 buildings, eight of which are still vacant.

Mr. Shymko: I understand and I share that with you. I completely agree with you.

Ms. Foran: We do not know how long that one-year period or two-period is going to be, or what it is going to say.

Mr. Shymko: We are told it will be approximately a year, because a year has elapsed already and the mention was about two years, so we have got one more year. I am sure that your decision to go through the suggestion of an amendment to the Ontario Heritage Act was based on the wisdom of deliberations at the city council level with the city solicitor. That is the best way of doing it, not through a private bill.

Do I understand clearly that that has been the preferred way of resolving this dilemma?

Mayor Eggleton: Just to respond on waiting for the heritage end, we are losing buildings and we want to try to keep them. We are in a building boom, so there is more of a tendency to see an acceleration of the demolition process in this period of time. Your accounts are two years and, of course, whether it is at the province or at city hall, there can be more delays quite frequently beyond what one initially anticipated. So it could be a lot longer than what we would want it to be.

We need this interim measure and the ministry that is responsible for the Ontario Heritage Act agrees that, as an interim measure with those amendments, it helps to protect the heritage buildings that we have. We do not know what is going to come out finally from this examination that the ministry has undertaken with the Heritage Act. But of course it would probably want to--if it decides on something of this sort that we are asking for, of a general provincial nature--come back and say that it wants amendments to make it all consistent across the province. We have no objection to that consideration. That is quite understandable, but we need something now.

We cannot wait any longer. We have waited a number of years. We have sought amendments to the Heritage Act in terms of general legislation. We cannot wait any longer. That is why we need this now. We have also got this other vehicle that we now use under the Planning Act in terms of residential buildings. We feel that we have got something that could be used on a test-case basis that is very consistent with the existing policy of the province. We are losing buildings all the time.

Mr. Shymko: You may not be the only municipality that is losing buildings. I am sure there may be other parts of our province--be it Peterborough, I do not know--that may have the same concerns. I do not have evidence before me of applications by builders in, let's say, Windsor, Hamilton, St. Catharines, Peterborough, Thunder Bay or Sault Ste. Marie where this dilemma exists.

Historic buildings in this province exist all over. They exist outside of the city of Toronto.

Mayor Eggleton: That is very true. They would have to speak for themselves. But we know in our case, with the current building boom, that we are losing them. We want to be able to protect them to this initial degree so that we can prevent just a lot of parking lots. We can get into a planning process with these owners.

Mr. Shymko: Would you suggest that similar interim private bills apply to four or five other municipalities that may have the same problem?

Mayor Eggleton: They would have to apply for it. They are not here; we are here.

Mr. Chairman: I do not want to interrupt you, Mr. Shymko, but we are now at 12:05 and we have exceeded our 12 noon time. We can bring these people back, if you wish, after routine proceedings. Do you have any further questions?

Councillor Kanter: I just wanted to say that obviously the citizens of Toronto have had some difficulty because legislation has not been amended. It may, ideally, be general legislation to apply across the province, but because the general legislation is not amended, we have lost a number of buildings, as have just been referred to. If we were to take the route that might be suggested of waiting for general legislation, we will be threatened almost certainly with the loss of 12 more.

Mr. Chairman: I do not think Mr. Shymko is suggesting that.

Councillor Kanter: If someone were to suggest it, that would be the result.

Mr. Chairman: I do not think he was.

Mr. Shymko: We certainly are concerned. We would not want to see any one building demolished. My understanding is that you made the decision following a meeting at which Mr. Michener, who was representing Dr. Munro, indicated--and I quote from a recommendation, the neighbourhood committee's report number 8--"The committee submits a communication of April 17, 1986 from Alderman Martin"--I believe--"and it is said that Dr. Munro is committed to strengthening the provisions of the Ontario Heritage Act"--Mr. Michener says that--"and that the timetable for legislative changes precludes any speedy action." That is the first reference to a problem, that there is a timetable that precludes speedy action.

This obviously created a concern for you. When this information was communicated, you were looking at measures for saving these buildings and you came with the suggestion of looking at your residential properties, and the controls you have over the demolition of residential buildings, and to go the route of a private bill. Your concern was a timetable, and losing, as Mr. Kanter says, approximately 12 buildings.

Did you make the same request when you made verbal or oral submissions before this public consultative process? When did you meet with the ministry at its hearings?

Mr. Chairman: I want to remain impartial as chairman, but I think the questions are getting to the point of something that does not really directly bear on the issue that is before us.

Mr. Shymko: For heaven's sake, I am not talking about the zoo or something. My questions are relating to this issue.

Mr. Chairman: I realize that, and I think you have directed yourself very well to the issue up to this point, but I think we are getting into areas that really do not have anything to do with this bill. I think in fairness to the delegation, as well as your colleagues--

Mr. Shymko: Let me try to conclude my question.

Mr. Cordiano: Could I have a point of order?

Mr. Chairman: Point of order.

Mr. Shymko: I have not--

Mr. Chairman: Point of order.

Mr. Shymko: I think Ms. Foran has spoken. There was no interference in terms of her questioning at all and I would appreciate--

Mr. Chairman: When a point of order is raised by any member, I have to determine whether it is a point of order.

Mr. Cordiano: Could we just get a sense of how long we are going to continue with this part of the proceedings? Some of us have other commitments.

Mr. Chairman: I am really at the wish of the committee. Traditionally, we end at 12 noon. Rather than having to bring these people back in the afternoon, do we have an agreement to end at 12:15?

Mr. Cordiano: I would just like to have some agreement about the length of questions. In that way, we might be able to get through.

Mr. Chairman: I understand from the clerk that Ms. Foran will be back this afternoon, in any event. I do not know whether that helps you. Do you want to go to 12:15?

Mr. Cordiano: Sure.

Mr. Wiseman: I do not want to interrupt Yuri's train of thought.

Mr. Shymko: We are all responsible. I could have invented some reason not to be here. I had a commitment scheduled for 11 o'clock, which I am missing because I want to question. I think we are all responsible. I will try to be reasonable and complete my questioning. I would not want to make any decision on this bill without having some clear indication as to what the province wants to do, the timetable, and the serious concerns you have, which I share.

In the neighbourhood committee's report, a statement was made to a retroactive concern, and I will quote from that, "It was further asked that the legislation be drafted," namely the Pr bill, "in such a way that it could apply retroactively to the stock exchange building, should that prove necessary." There is an impression out there that a certain developer--I believe Olympia and York--is holding someone hostage in the way it is trying to have the stock exchange building renovated. Do you still have that retroactive concern as indicated in this particular report?

Mr. Eggleton: The stock exchange building is under substantial discussion now with the owners, because of their new development proposals. That is, in fact, a good example of what can be accomplished, but unfortunately was not accomplished in a number of other cases. However, the threat is not totally removed. It is under discussion at this point. Perhaps, in general, I could ask Ms. Foran to talk about that.

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Mr. Shymko: Is there something retroactive in the legislation?

Ms. Foran: Again, I would not say it is retroactive. It would apply to any building for which, on the day the act comes into force, an application has been made to the council and for which the council has turned down that application under the Ontario Heritage Act. If the building has not been demolished then the act would apply and they could not demolish that building until they had produced the building permit and 180 days had elapsed. In most

cases, the 180 days will have elapsed, but they will not have had a building permit. So, yes, the act would apply to those buildings which are standing on the day the act comes into force.

Mr. Shymko: We do not know when the act will be enforced, and if it will be passed. But basically, are there any other buildings that are of concern to you? We heard the number 18, or something. Is the Stock Exchange the only one that applies to all of them?

Mayor Eggleton: There is a dozen at this point.

Mr. Shymko: That are retroactive?

Mr. James: There are 10. If the act was passed today there are 10 that it would apply to.

Mr. Shymko: That clears that question that I had. My further question, and I will try to have this as my last question, since I will be questioning other witnesses. The concern that I have is that obviously there are a number of irresponsible developers who, for one reason or another, do not share the collective responsibility and sense of maintaining these heritage buildings. On the other hand, you, yourself, Mr. Mayor, your worship, have indicated some excellent examples of responsible developers in the case of the Confederation--

Mayor Eggleton: Confederation Life.

Mr. Shymko: --Confederation Life, I believe, is the building that was mentioned. College Park, I think, is another example of a development that has gone through negotiations. Under the present status quo situation, the Scotia Plaza, I believe someone mentioned, is another example.

My question to you is, are we, for the sake of a number, maybe a few, irresponsible developers--I qualify my word "irresponsible"; maybe developers who do not share these concerns--going to introduce an interim legislation, that may have all the characteristics of being strong to the degree that it becomes unnecessarily intrusive, a year before major provincial statutory changes will be made and announced by the province?

Are we not just rushing into this? Can we not still, under the status quo, somehow negotiate the way you did with Confederation Life, College Park, Scotia Plaza, to save some of these buildings?

Mayor Eggleton: As you said just a few moments ago, you would not want to see any of these buildings lost. We do not either. We need this kind of protection to prevent them from being lost because our experience shows that, yes, we will lose quite a number of them; unnecessarily, we feel.

We are not just rushing into this. For a number of years, as you also pointed out, we have been seeking amendments to the general legislation. We have come here for a private bill to try and prevent the loss of many more of these buildings. There are quite a number of them that are very much threatened, as has been indicated. We do not want to lose them. Once you lose them, you cannot get them back.

Mr. Chairman: Thank you, Mr. Mayor. Mr. Shymko, I am going to move on because we have three minutes.

Mr. Shymko: I have a lot of respect for you, Mr. Mayor.

Mr. Cordiano: As you have indicated, you have tried on many occasions throughout the past to get the province to amend this legislation. Did you ever attempt to bring in a bill such as this in the past? Did you ever make a request before this committee, or think about it in the past?

Ms. Foran: We tried, in 1981, to bring before the committee that then considered private bills, an act that would basically say the 180-day period under the Ontario Heritage Act can be extended up to five years. That was turned down.

Mr. Cordiano: It was turned down by the committee?

Ms. Foran: By the committee in 1981. I have reviewed the notes at the time and it was indicated that there would be a review of the Ontario Heritage Act in this province.

Mr. Cordiano: That was under the former government. Was it a majority government at that time?

Ms. Foran: That was in 1981?

Mr. Cordiano: I just want to add there is a sense of urgency here. I know that our party is going to support this, as indicated by Mr. Offer. I might say, quite frankly, it may be a case of too little too late. We do have 300 buildings that we want to preserve but, frankly, we have lost a hell of a lot.

Mr. Chairman: The hour has now approached. I could make this final comment. Perhaps it will tide us over until the afternoon. It has been my recollection over the period of time that I have been chairing this meeting that it was relatively nonpartisan. I am glad to hear today that we have maintained that position in such a terrific fashion, but I would hope that we could maintain it even a little better in the balance of the hearings so that we can get through these hearings and get the bill decided on one way or the other.

The committee recessed at 12:15 p.m.

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T-4

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CITY OF TORONTO ACT

WEDNESDAY, JUNE 10, 1987

Afternoon Sitting



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Callahan, R. V. (Brampton L)

VICE-CHAIRMAN: Haggerty, R. (Erie L)

Bryden, M. H. (Beaches-Woodbine NDP)

Dean, G. H. (Wentworth PC)

Hennessy, M. (Fort William PC)

Lupusella, A. (Dovercourt L)

McKessock, R. (Grey L)

Miller, G. I. (Haldimand-Norfolk L)

Pouliot, G. (Lake Nipigon NDP)

Shymko, Y. R. (High Park-Swansea PC)

Wiseman, D. J. (Lanark PC)

Clerk: Manikel, T.

Staff:

Mifsud, L., Legislative Counsel

Witnesses:

From the Architectural Conservation of Ontario Inc.:

Keefer, A., President, Toronto Branch

From the City of Toronto:

Foran, P., Deputy City Solicitor

From the Toronto Historical Board:

Greer, W., Architect, Historical Preservation Division

Cuthbert, M., Head, Historical Preservation Division

From the Bureau of Architecture and Urbanism:

Kapelos, G., Director

From the Ministry of Consumer and Commercial Relations:

Offer, S., Parliamentary Assistant to the Minister of Consumer and Commercial Relations (Mississauga North L)

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, June 10, 1987

The committee resumed at 3:41 p.m. in room 151.

CITY OF TORONTO ACT
(continued)

Consideration of Bill Pr57, An Act respecting the City of Toronto.

Mr. Chairman: I recognize a member from each party. We will continue. I do not see Mr. Shymko here.

Mr. Keefer, would you like to come forward please? Do you wish us to have these copied?

Mr. Keefer: No, just take one and pass it on.

Mr. Chairman: One will be enough.

Mr. Keefer: To give the message, yes.

Mr. Chairman: Should we mark them?

Mr. Keefer: Yes, please do. Remember, they are grade 5.

Mr. Chairman: I think we are capable of marking grade 5. That would be about it. Please identify yourself for purposes of Hansard.

ARCHITECTURAL CONSERVANCY OF ONTARIO INC.

Mr. Keefer: My name is Alec Keefer and I am president of the Architectural Conservancy of Toronto. Thank you for allowing us to participate.

Perhaps I will give a brief note on exactly what the architectural conservancy is. In 1932, the conservancy was founded by a group of concerned citizens throughout the province. Those citizens included Eric Arthur and Dr. Tony Adamson. They thought the average resident of Ontario should have some say in the development of the province.

For the past decade or more, the conservancy has been divided into branches. There are 10 throughout the province and they basically represent geographic areas. Some of the branches are in the real estate market themselves. Notably, Port Hope and Cambridge have the endowment capacity to buy buildings when they are threatened. The Toronto branch, however, lacks that foundation capacity and therefore is primarily a lobbying organization.

I speak on behalf of about 750 households throughout Metropolitan Toronto. To be a member of the conservancy, you donate \$20 and you are on our mailing list for ever.

I think I am here initially to act as a character witness for the members of the Toronto Historical Board. I have worked with them over the past

several years and I find them to have a positive mental attitude towards creative redevelopment. They are very realistic and they are not solely in the museum business about buildings; creative rethinking, creative redesign.

As was noted this morning, Bill Pr57, by the letter of the law, changes the City of Toronto Act. The spirit of the law, however, is trying to amend the Ontario Heritage Act. Some concern was voiced this morning that we should wait out the redrafting of the Ontario Heritage Act. On behalf of 700 households in the city of Toronto, I respectfully submit that we cannot do that. We may have two elections in the next two years, and we could have two or three new ministers and a whole series of colleagues working under him or her. We cannot necessarily guarantee that all subsequent holders of the office will agree with the present ministry and its deep commitment to amend the act.

Regardless of what transpires, Bill Pr57 will give us, the volunteers, the paid bureaucrats and the Toronto Historical Board the chance to do our job.

As was noted this morning, we have had demolition control on residential structures in this city and it has not slowed the pace of development. There has been no hue and outcry against demolition control on residential structures. Now we are asking for demolition control on nonresidential structures.

It is a right and a privilege to build in the capital city of any nation, province or state, and Toronto is the Queen city of the province of Ontario. With property ownership in the western world go certain rights and privileges. I suspect subsequent speakers will talk of English common law, and that is true. But when a person or corporation approaches the capital city in any nation and asks to redevelop entire blocks, the corporation or individual must be aware that it is a privilege to redesign in our city. It is not just a right by expression of ownership.

The letters that were handed out--I do not know whether everyone got one or not--came from a school off Roncesvalles and Dundas in the city of Toronto. They are grade 5 students. One of the joys of working with the architectural conservancy is that you get to work with the young. Their last names are Copeland, Fernandes, Wojtkiewick--I apologize if I am mispronouncing it--and Da Silva.

Many of these are first generation Torontonians and first generation Canadians and they love their old buildings. One man, Mr. Da Silva, asked me, "Do you love your old buildings?" and I will ask the same question of you.

There was some discussion this morning about, "What building am I going to save if I vote for Bill Pr57?" I can propose a theoretical case situation because I am a free agent. There is a man who owns a particular sports team in this city and he has been very upset over the past number of years that the sports team has done so poorly. It just happens that the man who owns the sports team also owns the stadium. One night this winter, after a particularly bad game, this particular man could decide to sell the team to Albuquerque. Then he could offer the property this stadium sits on to a developer who would say, "I will buy the property if you get the stadium down."

I do not know how Harold Ballard would react. I also do not know whether any of you men or women would like to have to deal with Harold Ballard in an attempt to save that stadium. But with Bill Pr57 in place, the city and the Toronto Historical Board would have a chance to save the structure.

In the 1960s, the city of Toronto became alive to art, and art galleries proliferated. In the 1970s, the healthy obsession was with food and we developed hundreds of ethnic restaurants. I firmly believe that architecture is the healthy obsession of the city of Toronto and the province of Ontario in the 1980s. So in supporting Bill Pr57, you will not be pandering to a group of quasi-historical people. If you are on our streetcars or subways, everybody in the city of Toronto has their archetypical buildings. You will be falling in step with us and supporting us.

I will also ask you not to second-guess the council and the mayor of the city of Toronto. They have put forward Bill Pr57 and they say they need it to continue the good governance of this city.

I will regret if some developers are unable to work under Bill Pr57. I will be sorry if some of them opt to go rebuild Dallas or Miami Beach. But other people will fill their place. Thank you very much. Any questions?

Mr. Chairman: Just sit down. I am sure there will be questions. We will do it in the usual way.

Ms. Bryden: I am very glad Mr. Keefer came to give us a testimonial for the Toronto Historical Board. With me the board does not need one, because I am well acquainted with its work and its efforts to save our heritage.

I see that a person from my riding, Dean Famalga, is here. He has been very active in that board in that work.

There is a lot of support out there for the Ontario Heritage Act and for its improvement. I think we are all very disappointed that it has taken 11 years of efforts to get it changed. Perhaps this is the engine of change.

Do you definitely think an interim bill at this time would be able to stop developments, and that we might have to wait a much longer period if we wait for a provincial bill?

Mr. Keefer: I attended the May 20 meeting of the heritage review. The discussion paper basically dealt with the philosophy behind heritage preservation. It did not deal with the practicality of preservation. We have not had a clause-by-clause examination in public of the act. I should have brought my copy. They quote everyone from Northrop Frye to Superman in this very meaty volume. But they were talking to the doers, not the thinkers on May 20. There are thinkers within our organizations, but the people they pulled together were the envelope stuffers and the phone callers.

As yet we have not had a public meeting where we addressed how the act will be changed. Until we have had that forum and we know how the act will be changed, we cannot hold our breath.

Does that answer your question?

Ms. Bryden: You think Bill Pr 57 should go ahead in the interim.

Mr. Keefer: It is absolutely essential; absolutely essential.

Mr. Dean: I want to be sure I understand the process when Bill Pr57 does get passed. I understand the proponent of development cannot tear down a designated building until he also has a municipal building permit. That is the key restriction.

Mr. Keefer: Right.

Mr. Dean: Is part of the process of getting a building permit in the city of Toronto, the need to prove that a historic building should come down? What is the score there? If I am a developer and I come to you--

Mr. Chairman: I wonder if Ms. Foran would perhaps come up and sit next to this gentleman and she could perhaps answer any of the legal points.

Mr. Dean: Maybe I am asking the wrong person. I thought this gentleman, if he thinks it is such a good law, would know how it would work. If the magic thing is that you have to have a building permit, then does the council or the building commissioner or whoever insist that you do not get a building permit if you are going to tear down a good building? Is that how that helps? If you are just going to give the building permit anyway, what is the point of having this bill?

Mr. Keefer: Because you are demonstrating that you intend to build something.

Mr. Dean: That is okay, is it?

Mr. Keefer: It is a small thing to ask, I guess.

Mr. Dean: How does that jibe with the Toronto Historical Board's main purpose that the building not be torn down? If a developer says, "I am going to tear it down. I am going to build X, Y, Z structure," you say, "Okay, that's fine," do you?

Mr. Keefer: Do I personally?

Mr. Dean: Yes, or do the people who are concerned about this, the people who see Bill Pr57 as the salvation of your concerns. Are you satisfied that just because somebody is going to build something else, it is okay to tear down a historical building?

Mr. Keefer: No. I am not satisfied, no.

Mr. Dean: That is my question. What is going to prevent the commissioner of buildings, the council or somebody from saying: "Okay, you are going to build this building. Tear down the old junk"?

Mr. Keefer: As I understand, that will happen if you prove to the building department that you intend to build a structure, then in 180 days the clock starts ticking. It is that simple.

Mr. Dean: therefore, the builder gets the right to tear it down.

Mr. Keefer: That is right.

Mr. Dean: What happens if the historical board wants it preserved?

Mr. Keefer: That is a necessary step and requires that the new builder meet with them and discuss the plans.

Mr. Dean: I see. It is more than just saying you have to get a building permit; you have to prove to somebody else that you need that building permit. Is that right?

Mr. Keefer: No, I do not think so. You should be asking the legal counsel here.

Mr. Dean: If it is in order then, Mr. Chairman, maybe I could put it through.

Mr. Chairman: Perhaps, for purposes of Hansard once again, we could preserve you for posterity. Maybe you could both identify yourselves for Hansard.

Ms. Foran: Yes. My name is Pat Foran. I am the deputy city solicitor for the city of Toronto. On my right is Bill Greer, who is with the Toronto Historical Board.

Mr. Dean: Do you understand the gist of my question?

Ms. Foran: Perhaps you could ask it again.

Mr. Dean: What is the magic thing about requiring a building permit to be obtained before the developer proceeds with his plan, as far as it applies to the saving of a historical building?

Ms. Foran: From a legal point of view, it gives an opportunity for the city to examine the development before the building permit is issued. It does not give the city the opportunity to say, "You will not get your building permit if you do not preserve the building." It gives the city an opportunity to examine the proposal in the light of the existing buildings on the site. It gives us a certain amount of leeway in that we would no longer be faced with the argument: "We do not care what the city wants. After 180 days we can legally demolish it."

Mr. Dean: It is an open-ended period of discussion, is it? There is no guarantee of when the proponent may get his building permit?

Ms. Foran: Of course, when he satisfies the requirement of the Building Code Act he is entitled to a building permit. If the building permit is not issued then he is entitled to go to court and make the city issue a building permit.

Mr. Dean: That is the status now.

Ms. Foran: That is right.

Mr. Dean: But under this bill it is open-ended when he might get his permit.

Ms. Foran: No, we are not affecting any right he has to get his building permit providing he meets all of the other requirements of the law, such as the zoning compliance with the building code, and with the zoning of our applicable law when the chief official has to issue a building permit. They are not changing that. They are not even trying to change it,

Mr. Dean: No, I presume not. I just wanted to be sure that I understand correctly why Pr57 is that much better. Now I understand there is a 180-day cooling-off period in which nobody has to do anything if he does not want to and, automatically, he can apply for a building permit, probably get a mandamus or something to require it.

Ms. Foran: Right.

Mr. Dean: But under the new one he has no such right until he has proved to everybody's satisfaction that he is going to put something good up. Is that what it is?

Ms. Foran: No, he does not have to prove that he is going to maintain the building on the site if he can meet all the other requirements. What we are saying is there is one additional tool that would enable us to negotiate, or to at least try to blend in the existing with the old.

Mr. Greer may be able to answer the practical approach he envisages the historical board would take. Would you like to hear from Mr. Greer?

Mr. Dean: I am not asking for a lot of detail, if that is what is in the wind. I want to be sure that this is, in reality, something that is going to work; that we are not going to end up, at the end of the first application under this new legislation, finding out that it is the same old result all over again at the end of the period, where a developer proceeds to tear it down anyway.

Mr. Keefer: We have had it under residential in the city, and it works rather well. It has worked well; I think people are satisfied with it. So, basically, now we are just asking that it to be extended to nonresidential, commercial and industrial. I do not know what the machinery would do to be that much different except that we would have one more player now, the Toronto Historical Board. It is not really a new ball game for us.

Mr. Dean: I guess that satisfies my concerns.

1600

Mr. McKessock: To follow up on Mr. Dean's questioning, what pressure is the historical society going to put on the builder to leave the building in place prior to his obtaining a building permit?

Mr. Greer: At the present time, after the 180-day period has expired, the developer-owner may demolish the building and still proceed with other aspects of redeveloping the site. The purpose of this is that the building remain standing while that process is in negotiation. I think it can very often take considerably longer than 180 days to come to some kind of agreement.

Currently, there are projects where, under the act, the building has been delayed by agreement, although the developer still has the opportunity, at the drop of a pin, to demolish the building. At the present time, they are still standing and the 180 days have gone by, but that is only in some cases. There are many others where the building has gone, properties have changed, and the possibility of trying to save the building has been totally gone because there is nothing there to negotiate with. It is being held hostage, virtually.

Mr. McKessock: Does the city purchase the building? Is it the ultimate way of maintaining the old building in place for the city to purchase it?

Mr. Greer: In our experience, we have been able to preserve buildings in many different ways. It is almost a site-specific situation. As

far as the city goes, it has been able to preserve buildings of major significance in a way that has been acceptable to the developer as well as to the city, and I think all we are looking for is that opportunity.

Mr. Lupusella: I understand the good intention which is behind this bill, and there may be some time taken to reach the objective behind the bill, which can be easily justified. On the other hand, I see too much power given to the board. Maybe because I do not understand what is happening with the Ontario Heritage Act, I have some trepidations in accepting certain clauses of the bill per se.

A question I would like to ask on section 1 of the act, for example, would be the moving of an amendment to that section to add thereto the following definition: "'Heritage conservation district' means some area that is designated as such under section 41 of the Ontario Heritage Act."

Of course, you are very knowledgeable about the act. I have never had an opportunity to go through it. But a heritage conservation district might incorporate a large number of buildings. Am I correct? Maybe I have the wrong definition in my mind.

Mr. Chairman: There is a definition in the amendments that defines that term. I do not know whether you have seen that, Mr. Lupusella.

Mr. Lupusella: In the package of amendments?

Mr. Chairman: Yes, it is in the package of amendments you have.

Mr. Offer: It is the first amendment to the definition section.

Mr. Lupusella: I know, for example, in Toronto there is a building which is designated as a heritage building which is attached to an addition adjacent to the old building, a new addition where there is a business, for example, and does not have anything to do with the characteristic of the building per se.

Am I interpreting correctly that, following this particular legislation, the board, after designating the building as a heritage building, can go there and say, "We do not like the business you have; we have taken it over and you have to demolish," or something like that? In talking to a lot of people, that is their main concern. When you have one building designated as a heritage building attached to another building that has nothing to do with your concern, what kind of practice are you going to follow, taking into consideration the specific example I am giving to you?

Mr. Greer: Designation defines the reasons why a building is considered to be of heritage importance. When this is registered on property, it usually defines only that area that is of designation purposes. If there was an addition that was not part of the heritage designation, then that would not come under the designation.

Mr. Lupusella: But it is attached.

Mr. Greer: It may very well be attached to it.

Mr. Lupusella: Yes. Where do you put the line to preserve the business of the individual who owns the business and the owner of the heritage building as well? What is going to happen?

Mr. Chairman: As I understand it, this bylaw would be registered on title and would define the land and building to which it attached. If you had two buildings that were adjacent or joined--

Mr. Lupusella: No, they are attached.

Mr. Chairman: --they would have specific deeds. The building that had not been designated would not be affected in any way by this bill. Is that correct?

Ms. Foran: That is correct. Again, there is nothing in the bill that would affect the business of the person in the building, until such time as he goes to tear the building down. That is the sole purpose.

Mr. Lupusella: I remember, for example, the fight that took place maybe seven or eight years ago, between the Eaton Centre and the church behind the Eaton Centre.

Ms. Foran: Yes.

Mr. Lupusella: That was a long fight, with too many debates. Of course, there were forces, such as the Eaton Centre, that were trying to buy that building and demolish it. Did you play an important role in preserving the church, for example? I am not sure if churches are defined as part of the definition under the Ontario Heritage Act. Are they?

Ms. Foran: Yes, they are.

Mr. Lupusella: What kind of role did you play in that specific incident to preserve the church?

Mr. Chairman: Perhaps just for Mr. Lupusella, under the broader definition of "heritage conservation district," it would encompass an area, not specific buildings. I think that is what Mr. Lupusella is asking about: if this normally nondesignated building would be caught up in that, would there be a designation registered on the title of that land because it is in the district? Would they be caught by Bill Pr57?

Ms. Foran: Right now, we have only two conservation areas in the city. One of them is Fort York, which is owned by the city. Basically, we are talking about one area in the city that has been designated. When an area is to be designated, there are many hearings. There is the opportunity for a hearing at the Ontario Municipal Board before the designation goes on. Then the bylaw is registered against the area.

I suppose if a person feels the building is not historically significant, the opportunity would be to argue at the time the area is being designated; that did happen in the one specific area in the city. They can argue before the council, the committees of the council and at the Ontario Municipal Board.

There are many, many studies. Areas are not designated lightly. As I say, there is one very small area in the city that has been designated, plus the Fort York area, which the city owns.

Mr. Chairman: Is everybody notified in the case of that application, so they know to come forward?

Ms. Foran: Yes. There is advertising in the paper; people are notified; there are hearings at committee stages.

Mr. Chairman: It is not the 400-foot rule for zoning.

Ms. Foran: No.

Mr. Keefer: I think it took Mr. Greer seven and a half years to negotiate the Wychwood Park.

Ms. Foran: That is right. That is the one designated area. It took us many, many years.

Mr. Keefer: Many public meetings.

Mr. Lupusella: What are the criteria to establish that a building has to fall under the Ontario Heritage Act? What kind of criteria do you use? Is the public pushing the idea or pressing the idea that it is historic and must fall under this category, or is it the board, under which the Ontario Heritage Act is implemented, that goes around trying to discover the type of buildings which might fall under the category of the Ontario Heritage Act? What kind of criteria do you use?

1610

Ms. Cuthbert: My name is Marcia Cuthbert. I am the head of the historical preservation division of the Toronto Historical Board.

First of all, you asked what criteria are used for designating properties. The Ontario Heritage Act states that the building must be either of architectural significance or of historical importance. Under the heading of architectural significance, it could be the work of an important early architect or it could be an outstanding example of its period and so on. There are many subheadings of architectural significance. If it is of historical importance, it has to be associated with either a historic person, such as the birthplace of some important person, or with a historic event, such as the signing of a treaty or some major medical discovery or something like that.

Then you asked how the buildings get designated. In Toronto now, about 50 per cent of the buildings that are designated are designated in response to a request from the owner of the property. The city of Toronto has incentives to encourage preservation, so owners ask our board if they can be considered for designation so that they would be eligible for one of the grants from the provincial grant programs, or the city of Toronto itself has its own municipal heritage fund grant program. Other properties are sometimes designated as a result of a threat. If the owner is thinking of demolishing it and has not talked to us at all, then we might recommend to city council that it be designated. That gives the city the opportunity to delay demolition, but for only a limited time.

The problem we are confronted with is this flaw in the heritage act that merely allows a 180-day delay. When I first started working with the Toronto Historical Board, we did not have very many applications for demolition under the heritage act, but as the years went by, property owners or their agents realized that to get rid of any controls, they should go and apply for demolition away ahead of time, so the 180-day period would expire and then the land could remain vacant. When they went to do the development, they would not have to bother talking about preserving a heritage building.

This is why we are asking for the amendment, so they cannot get rid of the 180-day period years in advance of when they are really serious about doing anything. We are saying they should not get a demolition permit until they get a building permit to do a project on the site.

In the city, the sites usually incorporate a historical building and several other properties. It is not that we want to have them demolish the building when they get the building permit. What we want is a project that adequately incorporates the building or the important portions of the building into the development. If a building is demolished, the owner loses the opportunity to avail himself of all these incentives the city has. I have a list of them here. If you want to know about them, I can give you a list.

Mr. Lupusella: Thanks. The other question, if I may, is that you brought to our attention that you are dealing with 300 properties which are covered under the Ontario Heritage Act.

Ms. Cuthbert: Yes.

Mr. Lupusella: The Ontario Heritage Act came into place in which year? How old is this act; 10, 12 or 20 years?

Ms. Foran: In 1975. It was passed in 1974 and came into being in 1975.

Mr. Lupusella: Is your involvement just related to Metropolitan Toronto or you are extending your jurisdiction to the province? Where is it? Are all 300 properties located here in Toronto?

Ms. Foran: Within the city of Toronto.

Mr. Lupusella: We are not talking about other buildings which are scattered across Ontario. Am I correct?

Ms. Cuthbert: That is correct.

Mr. Lupusella: How many boards do we have besides yours? Do we have just one board or 10 or 20 boards to cover Ontario? Is there just one act that covers everybody?

Ms. Cuthbert: The provincial act allows each municipality in Ontario to set up its own advisory committee. Our board carries out the duties and functions for the city of Toronto. So there may be 100 of these boards across the province.

Mr. Lupusella: Considering that all of these 300 buildings have been designated, does the board operate as a watchdog to find out if a permit has been given for demolition so you can intervene in a case? What is your function as a board?

Ms. Cuthbert: That is correct. There are two main functions of our division of the board. One is to identify the buildings of architectural and historical importance; this is an ongoing thing we have been doing ever since 1973. Our second major function is to review all applications affecting those buildings.

But we do not just wait until an application comes in; actually, we notify the owner right at the beginning that his building is identified as

being significant. We talk to him and encourage him to approach us any time he is planning any alterations, then we can give him advice as to how to carry it out in a way that respects the architectural character of the building.

Mr. Chairman: I think the thing that triggers it is that they apply to the council for a demolition permit, even before this bill is passed; that triggers in the 180 days. They do not apply to the heritage board for the demolition permits, but to the council of the municipality.

Ms. Foran: Yes, but you have to understand that the Toronto Historical Board is a statutory agent of the city; it is another arm and it is like a department of the city. You are not talking about two very distinct bodies; it is a statutory agent of the city. The 180 days runs from the date the council makes a decision. The Toronto Historical Board itself does not do the designations. It makes a recommendation to the council; the council makes the designation. The council, then, would issue the consent under the heritage act. They act as our agent in bringing forward the recommendations.

Mr. Chairman: Mr. Haggerty had a brief supplementary.

Mr. Haggerty: Yes. Following some of the questions by members, I am a little concerned that you say this bill will add to the heritage act and preservation of buildings. All it really does is delay demolition past the 180 days, because what you are asking for is if an applicant can show, through the building permit, that he is going to rebuild, there is no preservation of the older building unless you can sit down with a gentlemen's agreement and say, "We want you to build around it."

But suppose the land is not there to build around it? I notice on Jarvis Street, where some high-rise buildings went up, they kept some of the older homes in front, which I find very accommodating. You are able to see the architectural value of the older homes in the area.

But this bill really does not provide the legislation you talked about, that would preserve those buildings of historical value. Am I correct on that?

Ms. Cuthbert: What I mentioned earlier is that in the city most projects incorporate several properties. Often there are older commercial buildings on small sites, assembled to make a new development. So only a portion of the site might be covered by a designated property. The rest of the site may have buildings that are of no interest. So we try meet with the owner and encourage him to retain the historical building in a sympathetic manner in the new development. There are really very few where we are just talking about one building being a redevelopment site.

Mr. Haggerty: But as was mentioned before by the solicitor for the city of Toronto, you have had something like 12 sites, and eight of them are now parking lots. I would be more concerned that you are going to have loss of assessment in the city of Toronto by having buildings torn down and turned to parking lots which sit there for five or 10 years on speculation. As land becomes more scarce, the values of these parking lots will go up. The end result will be that whoever--it could be for tenants, commercial development or office space; you may price yourselves right out of the market for accommodation. It becomes unaffordable.

1620

Mr. Chairman: I think we are straying a little beyond the supplementary and, in fairness, I think you will agree.

Mr. Haggerty: The point was that maybe the legislation does not go far enough when you talk about heritage buildings.

Mr. Keefer: I would agree that it does not go far enough.

Mr. Haggerty: That is right.

Mr. Keefer: But I am not an appointed official.

Mr. Chairman: Let us deal with what we have before us, Mr. Haggerty.

Ms. Bryden: May I have a supplementary on that?

Mr. Chairman: Yes.

Ms. Bryden: I am still not clear about what Mr. Lupusella is proposing, but it seems to me the whole purpose of this interim legislation is to see that parking lots are not there for anywhere from two to 10 years, producing only the revenue you get from a parking lot, when there could be a productive building. It could also preserve the heritage buildings within the project. We would be achieving two things at the same time. We would not see the disappearance of heritage buildings beyond the stage where anything could be done about them and, at the same time, we would allow for productive development of the property after there had been discussions with the advisory board, which is the Toronto Historical Board, in order to get public attention to the heritage involved here.

Of course, it would be nice if the provincial government would provide the money just to buy these buildings and to preserve them as buildings, but this is an alternative way, in the absence of great quantities of money, of actually preserving those buildings and building around them. Is that not the intent of the legislation?

Ms. Foran: The purpose of the legislation is to try to give the opportunity to integrate the old with the new, or at least part of the old with the new. We are not trying to say you can never tear down a designated building. It might be very nice if we were able to say that, but we are not here asking for that. We are just saying at least we would have the opportunity to know what is going to be built on the site before they take it down. Once they take it down, that is the end of the historic building and it cannot be replaced.

Ms. Bryden: I have one supplementary. Would you confirm that there are at least 10 buildings that are threatened right now and might disappear completely if this legislation is not passed?

Ms. Foran: Could Ms. Cuthbert answer that? I think she can give you a list of them.

Ms. Cuthbert: Yes. At the present time, there are 12 buildings that are designated on which the owners have applied for demolition permits. The 180-day period either has expired or is going to expire pretty soon. It has expired on 10 of the 12 buildings and it is about to expire on the other two.

Ms. Bryden: So it is a pretty serious situation.

Ms. Cuthbert: Yes.

Mr. Chairman: I think there was one further supplementary and I am going to allow it.

Mr. Wiseman: I have a question of the legal counsel. I thought of it this morning. I live in an old house, 1840s, so you know where I am coming from. On the other hand, having been Minister of Government Services, I know what can happen sometimes when you run into a heritage problem and people drag their feet for an awfully long time.

You are saying that under the present legislation, the city has six months when it can hold up a contractor. After that, he gets a demolition permit and can tear down the building, but he or she has to get a building permit. Just so this is clear to me and to everybody, you are saying to them they have to know what they are going to do, have their plans in place, have their financing in place, the whole bit, and you may or may not approve.

I know from the Ministry of Government Services that we could be looking at five years down the road before something is officially done with that property. We are putting added costs to the developer in there. If you do that, do you give him a break on the taxes? Does the Ministry of Citizenship and Culture come through with some assistance to the developer? What happens?

I have seen places where they have gone in and done this. We do not have the member for Wellington South (Mr. Ferraro) here, but when they were finished renovating a place in Guelph, they had to get higher rents for that, or leases, than one would have for downtown Toronto three or four years ago, because of what they had to build into it to meet the heritage qualifications.

I just look at it from the builder's standpoint, too, and eventually the tenants will have to pay for whatever costs the builder has incurred over the four or five years.

So we know what we are really talking about here, when you really put this in, what time frame do you figure as being reasonable time, and can council throw that out and have them go back and do whole architectural drawings again and this sort of thing?

Ms. Foran: Mr. Greer says he would like to respond first. Then I will respond.

Mr. Greer: I think in this particular situation what we are asking for is that we can talk at the very earliest stage of consideration because we feel that it is a mutual operation to determine just how the preservation of a building or a part of a building can be carried out, along with what an owner may wish to do in the way of development. This can be done in a very short period of time. The record that we have had in the city of Toronto with the development and the incorporation of parts, and in some cases all parts of buildings, this has been done as quickly as an architect can prepare his drawings. We do not expect to have complete drawings at any time. We can do this and we can act very quickly to determine exactly what can be done and what should be done with a property. There is usually no delay at all.

Mr. Wiseman: You really have not told me what you figure the time frame should be. Now you mentioned that you have a similar law for residential. Are some of the residential ones held up, as I understand they are, over a number of years before they are approved? Because, what you are asking for, with us, is in the residential end now.

Mr. Greer: I have none designated in the city of Toronto that have been held up at all for that purpose.

Mr. Wiseman: In the residential area?

Mr. Greer: In the residential area? I am not sure how many are designated in the residential field, but again I do not know of any that have been held up for that purpose.

Mr. Wiseman: What happens if you cannot agree with the developer? The developer says: "What you are asking me to do is going to put the cost of my project way out of line. I cannot afford to do what you are asking." Is his only recourse, then, after you have turned him back two or three times, to go to the Ontario Municipal Board, or can he say to someone else, cabinet or whatever, saying that "the city is being awfully unreasonable, asking me for way more than is necessary"? What appeal does he have so that he is not hung up with an expensive piece of property? He can have millions of dollars tied up in a property.

Ms. Foran: If a developer comes in with an application for a building permit that does not meet the approval of the Toronto Historical Board or the council--say there is just no attempt to preserve the building--but he brings in a building permit application that meets all of the requirements of the Ontario building code under the Ontario Building Code Act--in other words, it meets all the requirements of the law--then, of course, the city would have no alternative. The chief official would have to issue the permit.

If the chief building official for the city refused to issue the permit, then the courts would look at it and, if indeed all the requirements of law are met, the permit would have to be issued, notwithstanding that the designated building will be torn down.

We are not here to say, "Give us the right to stop demolition of all historic buildings." Maybe we should be, but we are not here for that purpose. We are saying, "At least give us the opportunity to negotiate so that when the time comes to get a building permit, the building is not gone." We just want to make sure it is still there at that time. Then we are in a position to offer the incentives, to offer the bonus and provisions of the official plan, or to look at it in the light of what we might offer in so far as zoning provisions are there, or any other incentives possible.

But it is too late to do that once the building is gone, and that is why we are here. We are saying that when the building is still standing, we are at least in a position to negotiate, to make compromises and to be able to integrate the old with the new. But the day the building goes, it cannot be replaced, ever.

1630

Mr. Chairman: In essence, to address Mr. Wiseman's concern, if a builder were to come in with an application for a building permit on the very day the 180 days would start, he would not be caught by Bill Pr57. He would be in the same position as he is right now. Is that correct?

Ms. Foran: If he comes in the day the 180 days starts, and if his building permit meets all the requirements of law--

Mr. Chairman: As he would have to do even now.

Ms. Foran: He would have to do that under the building code now.

Mr. Chairman: Then there is no extension by Bill Pr57. He is in the same position he is in right now.

Ms. Foran: That is right.

Mr. Chairman: Okay. Does that help you, Mr. Wiseman?

Mr. Wiseman: Yes. My main concern was that he was not held up for an unreasonable length of time and that the cost would not be way out of line.

I know some expect you to find windows with the old bars in them and want you to put those in where they are not energy efficient, and so on and so forth. It costs you an arm and a leg. That was what was done in Guelph and a few other places I know of. I think we have to be reasonable with the heritage part of it. I know someone said that my wife and I spoiled our house, but I said that I was paying for it. If the heritage people want to pay for it, that is another thing; they could say what they wanted in there. But as long as my wife and I were paying the bills, we were going to have it the way we wanted it.

Mr. Dean: You spoil your wife.

Mr. Wiseman: I give her what she wants.

Mr. Chairman: Thank you very much. We appreciate your submission.

We apologize to the next presenter that 3:30 was the scheduled time. Is Mr. Kapelos here? I apologize for the delay, but we got behind this morning and this group was actually good enough to come back after routine proceedings because we could not accommodate them this morning.

If you would like to come forward, Mr. Kapelos, and identify yourself for Hansard, please sit down so we can pick you up on the microphone.

BUREAU OF ARCHITECTURE AND URBANISM

Mr. Kapelos: My name is George Kapelos, and I am with the Bureau of Architecture and Urbanism.

Like my colleague Mr. Keefer, I am also involved in conservation, but in my case, it is buildings that were built during the period of 1945 to 1965. I am just here to speak in support of the Toronto Historical Board's and the city of Toronto's Bill Pr57.

We believe the measure would provide the city with greater control over the future of threatened heritage buildings, and we also believe it would reduce the number of wanton building demolitions. Current legislation does not permit municipalities from withholding demolition permits on designated heritage buildings beyond 180 days. The proposed legislation would further encourage the retention of heritage buildings and ensure, at least, that their demolition would not occur before the succeeding building or development is about to be built. We sincerely hope the province will enact this legislation. We also believe it will provide a sound example for legislation which may be adopted by other municipalities in this province.

Our group is a relatively small group. We have recently concluded a very successful exhibition and symposium to bring public attention to a group of buildings of relatively unknown heritage value. These are buildings built in Toronto during the period of 1945 to 1965. It may seem surprising to you that these are buildings of heritage value or architectural value and are also threatened; but these are buildings that are of particular concern to members of the architectural community in this city because of their recent vintage. Also, some of them are of great architectural and historical significance. One of the buildings the city of Toronto has identified that is currently under threat is the University Theatre; that was built in 1946.

As an outsider to the process--I am a planner in private practice here in the city of Toronto--I, too, with my colleague Alec Keefer, want to say how good a job the Toronto Historical Board is doing in terms of encouraging the preservation and protection of heritage buildings. For those members of the committee who are not from Toronto and who may not have a planning perspective on heritage matters, I just wish to say that the city of Toronto, with regard to heritage matters, is perhaps the most progressive city in not only Ontario, but in the whole Dominion. The city offers incentives with regard to the protection of heritage buildings, including density bonuses for the retention of heritage structures and relief from parking requirements.

It is important that this particular act be given consideration because the city of Toronto has always been the leader in terms of heritage legislation, applying for, I believe, and receiving permission for its own heritage legislation in the late 1960s. As a consequence, I think the city of Toronto has often been seen by heritage groups across the province, and also across the country, as a leader in terms of heritage matters.

With regard to the question that one of the members of your committee asked as I was sitting there listening, the board itself is not given power. The power always rests with the city council. For the most part, the city council has been very fair and judicious in terms of looking at the positive and negative aspects of the retention of heritage buildings.

Mr. Lupusella pointed out that he was concerned about the use, or the potential reuse, of heritage buildings. The Ontario Heritage Act only applies to those aspects of the designation, be they architectural or historical features.

I have worked on both sides of the heritage conservation issue. I have worked as a heritage person for the provincial government. I have then gone into private practice where I worked for a real estate development company, and applied for and received a demolition permit on a designated heritage building here in the city of Toronto. It was a case in which I personally fought with my superiors in the company to see that the building could be retained. The demolition permit was sought and received after the six-month period. The lot is still vacant some four years after the permit was received.

I think this legislation forces property owners, developers and the community to say basically: "Put your money where your mouth is. If you are prepared to redevelop the site, you should be prepared to have your plans in hand and be prepared to pay for your building permit." In that way, as a positive aspect, this legislation permits there to be continuity of history. It permits properties to be recognized as being of heritage value. It also permits the city to say, "Until the time that new development is in place, we want to see that this building remains."

As many of you know, climates--economic, political and social--change. I bring your attention to those buildings that the Bureau of Architecture and Urbanism is interested in. Some 10 years ago, nobody would have thought that buildings built in the 1940s or 1950s might have heritage value. Now they are becoming recognized as buildings of heritage value. It is clear that climates do change. It is important that every measure be given to the municipal government to ensure that proper steps are taken to ensure heritage structures are protected.

Mr. Chairman: Questions?

Ms. Bryden: I will pass at the moment.

Mr. Dean: I do not have any.

Mr. Lupusella: I have a question in relation to the search of the property--

Mr. Kapelos: To the which?

Mr. Lupusella: Search. Search of the property. In particular, in the words "architectural aspect of the building," are you talking about structure inside the building or a part which protects the building on the outside?

Mr. Kapelos: My understanding of the present provisions of the Ontario Heritage Act are that a municipality can protect exterior or interior, or both. It really depends upon what is of value from an architectural point of view.

Ms. Bryden: I would like to congratulate Mr. Kapelos for coming before us and so forthrightly putting his case in favour of the legislation. In the example you mentioned, where you had personally seen a company get a demolition permit, carry it out, and four years later it is still a parking lot, was there any attempt in that case to convince the company that the heritage building, or part of it, could have been incorporated into some plans, or are there plans in the works now for this property?

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Mr. Kapelos: As a matter of fact, on that particular property, some of the heritage buildings were retained. The company had made significant contributions to the retention of one of the buildings on the site, but it felt the remaining buildings were not of heritage value and therefore should be demolished, against the desires of the city of Toronto, I guess, because I believe the buildings were on the city of Toronto's inventory of heritage buildings. In that sense, the city of Toronto had stated its case and the developer had made its commitment too.

In the planning process, while the legislation has certain procedures, I believe the city of Toronto has a very good track record of negotiating and discussing and meeting with property owners. As many of you can appreciate, Mr. Wiseman was talking about how these projects could take from five to eight years. The plans are conceived in one year and it is three or four years later before phase 2 or phase 3 is developed, and even then circumstances and conditions change. In this case, the original plan was the plan the development company wished to go with, even though circumstances had changed. But in that time there had been considerable discussion and I believe the city had been fairly successful in receiving certain tradeoffs and benefits for the city and for heritage conservation.

Ms. Bryden: But if this act had been in effect, there would have been more time to achieve those tradeoffs and carry out those discussions?

Mr. Kapelos: What this act does is permit the city to avoid the nullification of a designation by the immediate application of a demolition permit. In essence, it says, "Permit us to continue negotiating with you after the 180 days." But as the city solicitor has pointed out, clearly, if a development meets all the requirements of the Planning Act, the Building Code Act and so forth, there is no recourse but to issue a building permit.

I see this legislation as a very positive as opposed to a negative piece of legislation, and I wish to emphasize that. I think what it says is that it allows for the continuity of construction, as opposed to the kind of bombing out of some of our communities, both in Toronto and potentially across this province.

Ms. Bryden: Thank you. Very well put.

Mr. Wiseman: Going back to my own municipality, I think we have a pretty good heritage group in Lanark. It may not be as big as Toronto, but we can hold our own with anyone in the heritage buildings we have, particularly in Perth. But we have a lot of buildings that are designated by the local architectural conservation advisory committee and so on and the heritage group as being heritage homes or heritage buildings and the owner would have to put in a lot of money to stabilize some of those. I can think of one in Lanark village that is an old heritage home.

When developers buy these older properties, and I know you are talking about newer properties, but when they buy one from the 1800s, with the regulations we have today for upgrading buildings and so on--and I was glad to hear you say you do not ask for all the parking and one thing and another--but if a contractor or developer had to stabilize that, even while he or she was in negotiations with the city or whatever about how to incorporate that, and perhaps the building is so run down that he or she cannot find tenants for it, what happens in a case like that?

Maybe the building is not as safe as it should be; he cannot find tenants and he is paying taxes on a building that has no tenants. In a case like that, do you allow them or is there any provision that would allow them to get rid of a building like that? I know different people have looked at the one I am talking about, but they want the Ontario Heritage Foundation to pay the cost of doing it. Some kids are going to get in there and something is going to fall down and hurt them, and hurt them badly, because they play in it, yet it is a heritage designated home.

Ms. Foran: I think there are two answers to that, and I will deal with one. First of all, if you examine Bill Pr57, it gives the council permission to do it. It does not require the council to say, "You cannot demolish until you get a building permit." It says it may. So if there were evidence that the building was structurally unsafe or unsound--and certainly we would send in our building officials to check it out--then the council has permission under the act. The act is nonmandatory; it is permissive. Council then could say, "It is not worth saving." On the other hand, they would look at what it would cost to save. That is Ms. Cuthbert's area; she can tell you where the funds might come from.

Ms. Cuthbert: I would like to reinforce what Ms. Foran has said, that when somebody applies for a demolition permit, council may either consent

or refuse. Of the 12 designated buildings in the city of Toronto that have been demolished since the act came into force, council actually consented to one. I believe it was because council felt the condition of that building was such that, when it had an opportunity to talk to the owner to see if it could be incorporated, it felt it could not, so it consented. Designation does not mean automatically that the building has to stay if it is unreasonable to keep it standing.

Mr. Chairman: I think you will see that is what they say in section 2, "The council may, if no building permit has been issued to erect a new building...refuse the application and prohibit any work being done." It is discretionary on their part. If the circumstances were such as you describe, they might very well decide to let it go anyway.

Ms. Foran: That is right, or they may look at ways to finance. That is what Ms. Cuthbert wants to speak on: how it could be what is called "mothballed" while this goes on.

Ms. Cuthbert: Yes. The city of Toronto has a number of incentives. Some of them are direct grants, such as the provincial program, Preserving Ontario's Architecture, which is a new program but similar to the building rehabilitation and improvement campaign, which we operated under until December. Also, in our official plan we have other types of incentives which are not straight cash incentives; the developer is given a bonus, which means he is allowed to build more, so his return on investment would be greater. There is a whole package of incentives; in every case we have to look at the site to see which of our incentives are applicable to that site.

But this is what we want: to have the opportunity to meet with the owner and present all these incentives, which he may not know about, rather than have him just whip out and demolish the building before we have had a chance to tell him about the positive incentives.

Mr. Chairman: Thank you very much. It was very interesting, and we appreciate your coming. We apologize for the delay. The wheels of justice grind, but they grind exceedingly slow.

We have a few matters I want to discuss with the committee before we adjourn, so do not go anywhere.

Ms. Bryden: On a point of procedure before Ms. Foran leaves: She is scheduled to speak to us next week. She did at one time say she was going to go through the act clause by clause showing the changes. Could that not be done this afternoon, so we have the possibility of finishing the debate next week in the committee?

Mr. Chairman: I am at the will of the committee if we have a consensus that she proceed today. I was not sure. Was that what you intended to do on the next occasion or were you just going to rebut what the opposition had to say?

Ms. Foran: That is partly what I intended to do.

Mr. Chairman: I thought that was what you were doing on that last part.

Ms. Foran: The committee will be going through it clause by clause, and I will be here to deal with any questions. I can certainly go through it clause by clause, but it is going to take some time. It is a fairly long act.

Mr. Chairman: Just in response to you, Ms. Bryden, the only reason it is not, perhaps, appropriate to go through the bill clause by clause at the moment is that we have not heard both sides yet; we have heard only one side. It may be precipitous or making a decision without hearing both sides to go through it now.

Ms. Bryden: I certainly agree with you on that. I just wondered whether Ms. Foran had completed what she was going to discuss this morning or whether there is some more general part of her submission we did not hear because of the other people getting their submissions in at the same time.

1650

Ms. Foran: Originally, I had anticipated that I would ask both Mr. Greer and Ms. Cuthbert to address the committee, because their involvement is somewhat different from mine or from any of the other people you have heard.

However, at lunch-time I received the brief that the people acting for the Canadian Institute of Public Real Estate Companies have put out. I would like the opportunity to go over that brief, because certainly I am going to have to ask some of the staff to come forward next week in rebuttal to some of the points that are being raised.

While initially I had planned today to have these two people address the committee, in speaking with them, I would prefer to wait until next week because they have not had the opportunity to read that material either. We think we could perhaps clarify some of the problems or some of the points they are raising if we had the opportunity to go over the material during the week. As I say, I got it about two or three hours ago.

Ms. Bryden: I think that answers my question. For the people here, is there a possibility we will sit after question period?

Mr. Chairman: We are going to deal with it right now in terms of what we would like to put on, if the committee is in agreement.

The last delegation is at 11 o'clock. We were hoping that after routine proceedings we could deal with the bills the clerk is about to read out, which I understand are noncontroversial--I have said that before too--and maybe we can complete them.

I think we have an obligation to the people who present bills to us to try to clear them through here as fast as we can. We have the time; we might as well use it.

Clerk of the Committee: This would be moving the bills we had considered having on June 24 up to the afternoon of June 17. They would be: Bill Pr63, An Act respecting the Institute of Municipal Assessors of Ontario; Bill Pr65, An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.; Bill Pr51, An Act respecting the City of London; and added to that list Bill Pr45, An Act respecting the City of Barrie. Then we could add--

Ms. Bryden: Those were for the 24th?

Clerk of the Committee: Those were basically the bills that were on for the 24th. We are just moving those up a week.

Then we could put on other bills such as Pr5, An Act respecting Great Lakes Bible College. The committee asked to have additional advertising. The one advertisement ran last week in the Ontario Gazette and will run again next week, so that will be our earliest opportunity to put Bill Pr 5 on, which the committee had agreed earlier to do.

Mr. Chairman: There are also a couple of other bills we are trying to find out about. One of them is the Blue Mountain bill. I may have to absent myself from that one, being an avid skier--

Clerk of the Committee: The Toronto Ski Club.

Mr. Chairman: The Toronto Ski Club. If I do put that on before the snow flies again--anyway, I understand there may be some resolution of that whole problem.

Mr. Wiseman: You had better get it on now.

Mr. Chairman: Then there was another bible college too, I think.

Although we will probably be sitting all summer in the Legislature, we do want to anticipate that if people have these bills, we can get finished before the House ceases to sit.

Mr. Wiseman: Realistically, if we go by what the rumour mill indicates, we have about two more weeks. We really would have to sit next week like we did today, if we can get permission.

Mr. Chairman: We have it for next week. That is why we are looking to do the 24th bills after routine proceedings. Then we can slot the balance of the bills into the 24th meeting, we hope.

Clerk of the Committee: Some of the bills.

Mr. Chairman: Some of the bills. Clear it up as best we can. Is there a consensus on that?

Ms. Bryden: You are saying that we finish Bill Pr57 even if it takes part of the afternoon?

Mr. Chairman: Yes.

Ms. Bryden: Then that we go on to those bills that are on the 24th until we rise at six or whenever there is a vote or something?

Mr. Chairman: Right.

Mr. Wiseman: If we are going on to this in the morning next Thursday, is it not realistic to ask the others not to come until the afternoon, rather than have them come and sit here? There is no way we will get through this in the morning. It will take at least all morning to get through this, and maybe even a little bit in the afternoon, will it not? Is that what you are planning?

Clerk of the Committee: Yes. I am going to ask them to come in the afternoon at approximately 3:30 p.m., as we started today. We will tell them the committee will be starting between 3 p.m. and 3:30 p.m. We will not have all these people come in the morning because some of them will be coming from a distance.

Mr. Wiseman: The best made plans do not work out sometimes, but is it hoped that we will finish with this bill in the morning of next Thursday?

Mr. Chairman: Hopefully.

Ms. Bryden: Mr. Wiseman puts the point more clearly. I really feel that we cannot ask people to come in the afternoon.

Mr. Chairman: Excuse me for just a second. I am sorry. I left out a piece of information. The clerk tells me that Mr. Winberg, who is scheduled at 10:30, has contacted the clerk and indicated that he may well just tap on to the 10 o'clock delegation, just send a letter agreeing with whatever the 10 o'clock applicant says. That would give us a bit more time.

Ms. Bryden: It could be compromised by inviting maybe two of the people for the afternoon of June 24. I do not think we should invite the whole group, because we still have the week of the 24th.

Mr. Wiseman: I do not think the chairman was planning that, Marion. I think he was just going to get a couple and then get the rest next Thursday or next Wednesday.

Ms. Bryden: That was not clear to me. I am sorry. Invite them for four o'clock or later.

Mr. Chairman: We probably could do that. I understand, as best we can judge, that the first two bills Pr63 and Pr65 are simply asking for professional designations, so there should not be too much difficulty with that.

We understand there is no objection to the the City of London Act at the moment anyway.

The City of Barrie Act deals with the tornado disaster. Perhaps we should leave them off and put them on June 24, because they have to go back to Barrie if we do not reach them. No one is objecting to that either?

Mr. Offer: No objections at this time.

Ms. Bryden: I think you are being optimistic, if you think the question of designation is not controversial and may not take time.

Mr. Chairman: Well, as a present holder of a QC--

Mr. Haggerty: No problem at all.

Mr. Wiseman: They changed their minds.

Mr. Chairman: Maybe we should put the City of Barrie Act on June 24. We can only put two of them to be heard, with them to arrive at four o'clock. I think that is realistic and we can be ready then.

Ms. Bryden: But warn them that they might not even get on, or at least that it might be five o'clock.

Mr. Dean: That would be optimistic.

Mr. Chairman: Barrie and London will go to the 24th.

Mr. Wiseman: How many would that leave possibly for the last day?

Mr. Chairman: We are not going to complete all of them.

Mr. Wiseman: Are we not? We are coming in every day too.

Ms. Bryden: I hope we are not meeting every day in July and August.

Mr. Wiseman: It would be a hardship if they did not get finished and had to wait, say, to October or November. The ski club one could be--

Mr. Chairman: We are told that with reference to the bible college there may be a problem.

Mr. Wiseman: I just wondered if between yourself and the clerk, if you looked them over, where there may be a hardship to a group; we have to think realistically that maybe there might be an election for fall. I happen to think it will be next spring, 1989 maybe, but if there is one, it could be November before we are called back or even a little later.

Mr. Chairman: We will do that. We will take a look at them and if there is anything there is an urgency on, we will try to get that on first. I do not like to move them ahead. I like to take them in the order in which they are introduced in the House unless I have the consent of the committee. I do not think it is fair to do it otherwise, but if you want to give me that latitude, I will try to do that.

Ms. Bryden: I understand the House leaders are urging all committees not to plan any sittings during July and August, and I hope this committee will go along with that recommendation.

Mr. Chairman: We are not authorized to sit outside the sitting of the House.

Ms. Bryden: We are not asking to be authorized.

Mr. Chairman: Unless we request it.

Ms. Bryden: What I am saying is I do not favour our asking.

Mr. Chairman: If you leave it with the clerk and myself, we will try to work it out.

Mr. Dean: We will give you all the latitude you need.

Mr. Chairman: Okay, we will try to be fair.

The committee adjourned at 5:01 p.m.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CITY OF TORONTO ACT

WEDNESDAY, JUNE 17, 1987

Morning Sitting



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Callahan, R. V. (Brampton L)

VICE-CHAIRMAN: Haggerty, R. (Erie L)

Bryden, M. H. (Beaches-Woodbine NDP)

Dean, G. H. (Wentworth PC)

Hennessey, M. (Fort William PC)

Lupusella, A. (Dovercourt L)

McKessock, R. (Grey L)

Miller, G. I. (Haldimand-Norfolk L)

Pouliot, G. (Lake Nipigon NDP)

Shymko, Y. R. (High Park-Swansea PC)

Wiseman, D. J. (Lanark PC)

Substitution:

Miller, G. I. (Haldimand-Norfolk L) for Mr. Haggerty

Clerk: Manikel, T.

Staff:

Mifsud, L., Legislative Counsel

Witnesses:

From the Ministry of Consumer and Commercial Relations:

Offer, S., Parliamentary Assistant to the Minister of Consumer and Commercial Relations (Mississauga North L)

From the Canadian Institute of Public Real Estate Companies:

Bermingham, T. W., Legal Counsel; with Blake, Cassels and Graydon

Daniel, R. A., Executive Director

From the Urban Development Institute:

Winberg, J. D., Legal Counsel; with Weir and Foulds

From Berridge Lewinberg Associates:

Lewinberg, F., Principal

From the City of Toronto:

Eggleton, A., Mayor

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, June 17, 1987

The committee met at 10:26 a.m. in room 151.

CITY OF TORONTO ACT
(continued)

Consideration of Bill Pr57, An Act respecting the City of Toronto.

Mr. Chairman: I now recognize a quorum. I apologize for the delay in starting. We are on a very tight schedule this morning. For that reason we have limited the deputations to half an hour each and there are three minutes left to this deputation; no, I am only kidding. By previous agreement, we are going to take one question from each caucus in rotation. Mr. Bermingham, would you come forward, please? Is anyone with you, Mr. Bermingham?

CANADIAN INSTITUTE OF PUBLIC REAL ESTATE COMPANIES
URBAN DEVELOPMENT INSTITUTE

Mr. Bermingham: I would like to introduce Ron Daniel, president of the Canadian Institute of Public Real Estate Companies.

Mr. Chairman: Let me just stop you there. Maybe you can sit down first, so we can get you on Hansard.

Mr. Bermingham: We have given the names to the clerk, sir.

Mr. Chairman: You can identify those gentlemen there for purposes of Hansard and then proceed.

Mr. Bermingham: With me, and speaking first, will be Ron Daniel, president of the Canadian Institute of Public Real Estate Companies. With your indulgence, he will be followed by Frank Lewinberg, principal of the firm of Berridge Lewinberg Associates and the authors of a report that was included in the brief, which I hope you have all received. Again with the committee's indulgence, I will make some brief comments and summation.

We have structured our submission so as to avoid duplication and we hope we will be able to fit within the time limit. We have, however, spoken to Mr. Winberg, who follows us on today's agenda, and he has indicated that his submission will essentially be to indicate the support of the Urban Development Institute for our position. He has some comments to make supplementary to ours but he has volunteered, again if your committee sees fit to permit this, to allow us to encroach slightly into his time because he does not think he will need to whole half hour. If we do overrun slightly, sir, I hope you will allow that to be the mechanism.

Mr. Chairman: I wonder if perhaps Mr. Winberg would like to come up here now and we could sort of piggyback them. Would you like to do that, Mr. Winberg?

Mr. Winberg: Thank you, Mr. Chairman.

Mr. Chairman: You can just have a seat and identify yourself for the purposes of Hansard. You can bat cleanup, I guess.

Mr. Winberg: My name is Jack Winberg, with the law firm of Weir and Foulds. I am here today representing the Urban Development Institute. I have given the clerk a copy of a resolution passed by the institute at its board meeting on June 9.

Our position is essentially in support of the submissions that will be made to you by CIPREC. With whatever time is available once the CIPREC brief is completed, I will have a few additional comments to make. However, I do concur with the comments made by Mr. Bermingham that my time is his time for the purposes of the presentation.

Mr. Chairman: All right, Mr. Bermingham.

Mr. Bermingham: Mr. Daniel would like to begin.

Mr. Daniel: I would like to summarize briefly the key points we made in our brief submitted to you last week. They fall into two groups, those concerned with the planning processes and those related to legal structure and drafting. As Mr. Bermingham has just said, following my summary, both he and Mr. Winberg will deal with those two issues at more length.

In our brief, we provided you with a copy of the 1986 CIPREC report describing the membership and its activities. Many of the members are household names. The top dozen or so are among the largest developers in the world and are noted for high-quality development projects on prime locations. It is interesting to note that today most of the members of CIPREC build commercial projects to own and operate, not to sell. They are in the business for the long term. They like the Metropolitan Toronto planning environment. It is tough and demanding but fair. Everyone goes through the same hoops and future competitive buildings in the same area will generally complement or enhance, not detract from, their investment.

CIPREC members are committed to the preservation of heritage buildings within the context of an equitable process and fair compensation. Heritage buildings and preservation are included in CIPREC projects across Canada. I will not give the examples; I will just name the cities: Halifax, Montreal, Ottawa, Toronto, Vancouver, Victoria. All these centres have a number of excellent examples of heritage preservation.

They operate internationally; for example, Markborough's Beaver House, the original head office, if you like, of the Hudson's Bay Co. in London; Olympia and York's Exchange Building in Boston; Cadillac Fairview's 1001 Pennsylvania Avenue, Washington, DC. A number of buildings have won awards for architectural merit, such as Queen's Quay in Toronto.

CIPREC respectfully asks that this committee refer Bill Pr57 to the provincial organizations charged with carrying out the general provincial heritage policy review, with a request that they consider the concepts for demolition control embodied in the proposed legislation in terms of (1) the probable negative impact of the legislation on heritage preservation; (2) the roles and responsibilities of heritage organizations and their ability to discharge them; (3) the appropriateness of this legislation to serve as a provincial model, particularly for urban centres in Ontario.

We ask the committee to do this because the CIPREC members are extremely

concerned that Bill Pr57 does not encourage long-term preservation; it ensures only that a new building will replace the old. It threatens to destroy the balance of present negotiations in the development process and increase tensions between the development community and the city. Bill Pr57 removes property rights without ensuring adequate compensation. The requirement for a building permit may actually speed up the demolition process by removing the developer's leverage and interest in negotiating. To our knowledge, Bill Pr57 has not been referred to the city planning department for review and study of its impact, even though the city planning department is conducting a review of its heritage planning policies.

We believe Bill Pr57, its requirements and impact should have been formally drawn to the attention, individually, of the owners of all designated properties and probably listed property owners in view of the significance of its impact on property rights and the city planning and development approval process.

We ask that this committee consider very carefully the case the city made for this legislation last week. It was based upon current development pressure in the city core--12 designated buildings that have been demolished, eight of which were parking lots or vacant space and 12 more that are presently in danger.

We have received information from the Toronto Historical Board and reviewed it. We find that of the 12 buildings that were demolished, four sites have been built on. In three of these, the original heritage building was removed for safety reasons. The removal of the fourth was approved by city council, so that brings us down to eight. Eight designated buildings were demolished after the expiry of the present demolition control period.

One of them, Jesse Ketchum Hall, a Pentecostal church, was demolished after somewhere between six and 10 years of negotiation, not by a developer but by the church community. During that period they looked at two, perhaps three proposals, depending on how you describe them, but failed finally to find the required financial resources. I understand that at one stage there was a discussion of a Wintario grant but that was considered inappropriate by the church.

Of the other seven, one burned down and I believe the city feels that was arson. One became structurally unsound during the attempt to move it; the developer was moving it but it could not be erected on the site again. One does not really fit as it is outside the control area and therefore there are no incentives to protect the building. That leaves five of the 12 that we would find to be in the classification they have.

Of the 12 threatened with demolition, we have reviewed their most recent list of activities concerning those sites, dated June 11, I think. Eight of them could be described as active ongoing negotiations between the developer and the city. Only four of them appear to have serious problems that could be considered to be threatening the heritage property.

The Canadian Institute of Public Real Estate Companies contends there is no place for implementing this flawed legislation since there is no crisis as developed by the city's original statistics, while there is positive evidence that a sound heritage process is alive and well and that healthy negotiations are in process and should not be disturbed.

I would like Frank Lewinberg to pick up from there on the planning process as he knows aspects of it.

Mr. Chairman: If I could just interject, I have to review something with our committee. As you know, we were planning on sitting after routine proceedings next week to clean up as many bills as we could before the House adjourns. At the moment, we do not have all-party agreement that we will sit after routine proceedings. For that reason, I was going to suggest that we start at nine o'clock next week. Is there a general consensus on that everybody will be here promptly at nine o'clock next week?

Mr. Lupusella: Perhaps I may suggest we have an extra day to sit during the week.

Mr. Chairman: I do not think we can get it, Mr. Lupusella.

Mr. Lupusella: No?

Mr. Chairman: No. What we may do, with your concurrence, would be to start at nine as an alternative. I ask the clerk to try to get us approval to sit after routine proceedings as well. If she is not able to do that, at least we can get an extra hour to deal with the bills we are going to try to deal with. If we are able to sit at nine, with a bit of luck we could finish all but one of the bills we had slated if we sat after routine proceedings. Is there concurrence among the committee members in that regard?

Ms. Bryden: I have indicated I would not be available next week after routine proceedings. I would be available at nine.

Mr. Chairman: In the event we are able to get concurrence from the House leaders to sit after routine proceedings, perhaps you can get someone to substitute, if you would; either that or the other member of your party could sit.

Ms. Bryden: I cannot guarantee that any other member is available.

Mr. Chairman: I guess I will tell the clerk that. I guess we will not try to sit after routine proceedings. But you are agreeable to sit at nine o'clock.

Mr. Bryden: Yes.

Mr. Chairman: Thank you. Now that we have cleared up that minor detail, go ahead, Mr. Lewinberg.

Mr. Lewinberg: I will try to keep my remarks as brief as possible. You have the report our firm prepared in the submission from CIPREC. We have been involved in a number of historical preservation projects in the city of Toronto. Our firm strongly supports preservation and we have never been involved in the demolition of a designated building.

In preparing our analysis, it began with the principles laid down by CIPREC for us, and I would like to reiterate them: CIPREC is committed to the goal of heritage preservation in the context of an equitable process in which the designation of a building is subject to rigorous criteria and meaningful review, as well as fair compensation for the owners of such buildings.

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In our analysis, we found it necessary to go and look at the whole context in which Bill Pr57 will operate. It operates in the context of the policies and regulations of the Toronto Historical Board, the policies of the city of Toronto planning department and city of Toronto council, as well as the provincial legislation.

We found it generally to be working quite well. The Toronto Historical Board does an excellent job with the limited context in which it operates, as does the city planning department and the development community. There are a lot of developments that we are very proud of that have, in fact, been retained and developed in the city of Toronto.

We think Bill Pr57, even as an interim step, would not achieve what is intended, and that is to add to the arsenal of preservation. We think it will distort the current negotiation process that is part of the preservation process under way in the city in favour of the city, so that developers in some cases will refuse to get into the process at all. Currently, in the 270-day and 180-day periods, there is considerable negotiation between the city and the developer. If the developer feels he has no potential leverage on his side, he may not begin that process.

In our report and the conclusions on page 2 and 3 of our report we have comments on the existing legislation. I will not go through them. We have a lot of concerns about the existing legislation. That is nothing we can do anything about and that is nothing the Toronto Historical Board or the city of Toronto planning department can do anything about. That is the context in which we work; it is an imperfect context.

I just want to summarize, in the context of CIPREC's own objectives, what our problems with them are. First, the criteria used for listing or designating buildings do not identify truly significant properties around which there is a clear community consensus that they be preserved. We have in our report some case studies dealing with that. There are many others that I could--if the questions arise.

Second, there is no present appeal mechanism from council's decisions in the existing legislation, not in Bill Pr57; that is to the Ontario Municipal Board or to some similar organization. The implications may be much more serious for a property owner than zoning, which is always appealable under the Planning Act. That is a very important point. Third, there are no provisions to ensure fair compensation, even though the city has, on its own, attempted through the official plan in some parts of the city to cater to compensation.

To deal directly with Bill Pr57 in this context, we are of the view that it does not encourage long-term preservation of historical buildings and that is its main purpose. It only ensures that a new building will replace an old one, and in so doing, it threatens the balance of negotiations between developers and the city. It does this really by requiring that a building permit be required before an applicant may apply for demolition of a building.

I am going to sort of skip my brief and go straight to the case study that started this whole process. It is a case in which I was involved, and that is the old Toronto Stock Exchange building, very close to the corner of King and Bay. This is the building that, when a demolition application was filed for it, gave rise to this legislation. The facts are put down in some

detail in our report, but let me just reiterate them very briefly because it is a perfect example of our problems with the legislation.

The developer began negotiations on this very important location with the city planning department and was in negotiations for a two-year period or somewhat longer than that. Whatever the reasons were, they could not come to an agreement, though there are bonusing provisions with the official plan. The developer felt more was required, as is the case with many historical buildings that have been retained. No agreement could be reached. The developer had at that point prepared designs both incorporating the old stock exchange and without the stock exchange, assuming the demolition of the stock exchange building. The designs had been prepared but the developer felt it was necessary, to indicate the seriousness of the alternative without the stock exchange, to apply for a demolition permit, which he did. The city's neighbourhoods committee reacted very angrily to that and asked for this legislation. That is where it began its life.

What happened, though, was that during the process of the next year an agreement was reached between the city planning department and the developer in which the city planning department gave more, the developer came down from his number to a point where agreement was reached that they would proceed with retention of the building and build over the building. That is still the case. The developer has never picked up his demolition permit, though he is entitled to.

Had this Bill Pr57 been law at that time, let us consider what might have happened. If the developer wanted to increase his leverage in the negotiations, and we all understand there has to be leverage on both sides if there are going to be realistic negotiations, the developer would have had to commission working drawings, which would have cost over \$2 million. He would have had to go through the development review process under section 40 of the Planning Act, if he could have got there at all but let us assume he could have got there within the existing zoning bylaw, and would then be in a position to apply for a demolition permit.

After having invested that time and that additional money in working drawings, it is unlikely the developer would have been prepared to continue the negotiations. That is obviously the position. The developer would have proceeded then to get his demolition permit and would have used the building permit to demolish the building. It would not have produced what has in fact occurred, the preservation of that building.

The one point raised in the submissions we heard last week by the city and the Toronto Historical Board is that buildings are demolished when there is no clear purpose and they end up as parking lots. It is very possible, and the city has done it in certain areas of the city, for the city to pass zoning bylaw amendments prohibiting the use of designated buildings for parking purposes should they be demolished. That is a simple zoning amendment that removes any revenue source from the demolition. Second, it could go even further and require that if such a demolition were to occur, the vacant property left be landscaped appropriately, grassed, treed, etc. That is all possible under existing planning legislation without coming to you for additional powers. The city has not chosen to do that. Instead, it has chosen a mechanism that will not produce what it intends to produce.

My final point, and I think it is an important point, is that when this matter went through the neighbourhoods committee, and it came back a couple of times, the planning department that is charged with the negotiations with

developers, the groups that negotiates on historical preservation, was never asked to comment. To this day, it has never given council the benefit of its opinion.

The planning department is also currently reviewing the official plan policies on historical preservation. We understand it is very close to completing its work, yet it has never given council the benefit of its opinions on Bill Pr57 and the implications on its own negotiations with developers.

Mr. Bermingham: I have an outline of what I am going to say. It may be helpful to you if I give you that. I would like to review briefly five things we would like to constructively suggest the city might do, even before resorting to the need for this legislation.

Mr. Daniel has reviewed the current status of the development process in the city so I will just take that off my list. In effect, he has tried to submit to you a summary of the existing properties and has tried to demonstrate to you that the process is working. There are always going to be unscrupulous developers. They are not among the members we represent. The problem is that our members will get caught in that net with them all. I might add that an unscrupulous developer will find a plethora of ways around Bill Pr57.

In so far as it goes, it is effective enough to stop the scrupulous ones; in my submission to you, it is not effective enough to stop the unscrupulous ones. I will give you some indication of that.

Among the several problems in our legal brief--it may be legal but I think I can promise you will not be boring--there is one problem in the structure of the bill that I would like to draw to your attention. I would like to briefly review the question of notice.

There are five things that we would like to constructively suggest the city could do before it can demonstrate a need for special legislation. The first, as Mr. Lewinberg has indicated, is to use its zoning power. If the evil, which this bill is directed at and it is a real evil, is premature demolition and use of valuable heritage resources for an interim period as parking lots, then take away the right of the developers to turn those buildings into parking lots. You can do that under the Planning Act as it exists now.

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They can also, in a case that is a real emergency and a valuable enough building to the city, always use the Expropriations Act. That does not mean they have to take full ownership of the building. If the problem is that more time is needed, a month or two, they can take a short-term possessory interest in the building and forestall a demolition. In some cases, that might entitle the owner to compensation if they went that route, but again our members see nothing unfair in that. If the owner is put to a loss, there is nothing unfair in his attempting to claim compensation for it.

As Mr. Lewinberg and Mr. Daniel have indicated, the city has at present no policies to confer any planning benefits for the preservation of heritage buildings that are outside an area called the central area, which is roughly a sort of large downtown of the city. It excludes the Joy Oil station that was lost some time ago amid some publicity. Existing official plan policies do not

allow the city to offer the owner anything for the preservation of that building. While, on the one hand, the owner can be called insensitive, on the other hand, the city had nothing to offer him, and I do not think the blame can be put entirely on the developer for that type of scenario.

Another thing they could do that would be most important would be to give the development industry an indication in advance of which buildings in the city are important. At the moment, the way the system operates is that in effect most buildings are designated only in response to a development initiative.

There is a document that anyone can buy at the city called the Inventory of Heritage Buildings. It lists more than 2,000 properties. Of those, whenever a development application is made, a computer link in effect rings an alarm in the city and says that one of the heritage buildings is under development pressure, but there is no indication to the developer in advance that he is dealing with a building the city regards as significant. It would be of immense value to the development industry if they would just publish a list that would say of the thousands we have listed, we really care about--of course, they care about them all but we have to be realistic and discriminate. We cannot save every single one of the buildings that have been designated.

You can see the frustration it fuels in the development industry. They buy a property. It is not designated. They expend money on architects and planners. They get their application in, only to discover that it is one of the ones the city cares about. The designation process arises at that point. To know in advance would do a lot.

Mr. Chairman: It is suggested the bylaw on title would do that.

Mr. Bermingham: Yes, the bylaw is the designated bylaw. That is what they do. That is what the designating process is. That is done only in response to a development process. In other words, the developer submits a development application and at that point the city initiates--no question; from the moment they initiate the designating process, there is notice on title. As they indicated to you, there is some number of designated buildings that ranks in the low hundreds. The number of listed buildings ranks in the thousands. At the moment, you have only your own guesswork to guide you when you buy a property, as to whether it is one that is going to entail a designating process.

Mr. Shymko: Is the Colonial Tavern designated?

Mr. Bermingham: I do not believe so, but I do not know. I would have to check the inventory.

I understand there is a cost factor in actually designating in advance, but we have had 12 years of the Ontario Heritage Act and in our submission it is really time they went through the inventory again. The inventory has seen an investment of a lot of work to prepare it, but it is time we had it narrowed down into classes of buildings, really important ones about which, as Mr. Lewinberg says, there is a consensus that they must be preserved, and other ones that may be worth some protection, but less protection.

The last thing they could do is simply to develop, as they are doing now, and complete a review of the policies in the central area of the city and

make them more flexible, more appropriate, more usable and more attractive to the development industry.

It seems to me so patently obvious that the way to save heritage buildings is not to put more rules on them; the way to save them is to turn them into gold mines. Put it in the official plan so that when a developer sees he has a heritage building, he does not curse under his breath. He says: "Great, I have an opportunity here. Now I can do something to save this building. It is worth money to me. I would not dare tear it down." That will be more effective than the vinegar approach. Honey catches more flies than vinegar.

The one legal flaw I would like you to consider, because it is of critical importance to the functioning of this bill, is who is actually going to be charged if the replacement building does not get built. I have read the bill carefully, as have other members of our firm, and our understanding was that the functioning of the bill was to put the obligation on the registered owner at any time; at the time the charge was laid.

This is the part that is legal but I can assure you it is not boring. If A owns a property and he starts demolition on it, then sells it or transfers it for whatever reason to B, there is a two-year clock running. If that building does not get built, somebody is subject to prosecution and possible imprisonment. Who is it? Is it A or B?

We were always under the impression that they were both subject to possibly being charged. We were told last night by the city that its interpretation of the bill is that it is only the person who made the application for the demolition. If that is the case, it means that if the property is sold, the vendor who has sold the property and now has nothing more to do with it is the one who goes to court and is potentially imprisoned if the building does not get built by the purchaser. It might change hands two or three times.

We are told that is the way the bill was deliberately drafted. Once you understand that, then a lot of our other concerns fall into place, such as why do subsequent owners not have the right to apply to the Ontario Municipal Board for relief? It is very important to understand first who is supposed to be charged. If the city's interpretation prevails, is it fair to put a person in jail potentially or at least subject him to prosecution when he has sold the property? The bill must be clarified. In fairness to you, you must understand what you are proposing for enactment. Who are you subjecting to that penalty?

If I were asked by a bank or a lender whether it was safe to advance money on one of these projects, I would have to tell them there is a risk. That in itself is going to pose a problem for the financing of these projects.

Whoever is right on the interpretation, there are problems either way. If all the owners are liable, then of course you have the problem that mortgagees, contractors or anyone who subsequently voluntarily or involuntarily becomes the owner of that building inherits an obligation and a potential liability to prosecution. If it is only the original owner, then you have the problem that he remains liable whether he sells the property, loses it to a mortgagee or whatever. He has no control over it, but he is the one who suffers the penalty if it does not get built.

I respectfully but strenuously submit that is a problem you must be satisfied as to before you refer this bill.

I would also like to ask--it really carries on from that--about a question of notice. There are two aspects to the question of notice. Mr. Daniel has indicated that given what I would call the extraordinary effect of this bill, the people who are on the inventory, in other words the people who are in a sort of no man's land not knowing whether they are going to be designated--some of them are designated--all deserve notice of this bill.

I appreciate that the legal requirements for notice have been fulfilled, but I would ask you again to consider, does the average householder, the average small owner of a property in the city of Toronto, understand the change in the rules that is afoot? You may say it is his fault for not reading the Ontario Gazette and the Globe and Mail when the notice of the bill was passed, but most private legislation does not have this direct effect on property rights.

There is a second branch of the question of notice, and that is with regard to the changes that have taken place in the legislation since notice was published. There was no indication in the original bill that there was any possibility of anybody going to jail for violating these provisions. It was done in the form of a lien and the penalty was strictly money when the notice was published in the Globe and Mail. I may have missed it. If there has been notice published since of the change in the bill from in effect a lien, a tax penalty, to a possibility of quasi-criminal prosecution and imprisonment, then I apologize, but I do not believe it has. I submit to you it is important, even if people saw the first notice, that they understand there has been a substantial change.

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Mr. Chairman: Are you suggesting that because of inadequate notice, the proceedings before this committee are irregular?

Mr. Bermingham: It is not for me to say that. I understand that is a matter for a Speaker to rule on. All I am speaking to is the policy. Are you comfortable? I do not purport to get into the legality of it.

Mr. Shymko: On a point of order, Mr. Chairman: A very important issue has been raised. I would like to have an answer as to whether or not a change had been made to the original bill and whether a second notice had been put.

Mr. Chairman: Just a second. Do you have a copy of the notice requirements?

Clerk of the Committee: The standing orders.

Mr. Chairman: Let us clear this up.

Mr. Bermingham: I might just say that I am not trying to argue the legality of that. I will leave that to you. I am just asking you to consider the policy of it.

Mr. Chairman: I am going to have the clerk clear up that point and the point of order.

Mr. Shymko: Which section of the bill was amended from a lien to--

Mr. Chairman: Just a second. We are just trying to do the first part. Standing order 72(e); I would like the clerk to read into the record what the requirements are.

Clerk of the Committee: This is the notification that goes out in the advertising.

"Notice of an application for a private bill shall be given before it is read a first time by publishing the notice once a week for at least four weeks in each of The Ontario Gazette and one newspaper circulated in the municipality most affected"--by the bill--"and the notice shall,

(i) be signed by or on behalf of the applicant;

(ii) clearly state the nature and object of the application;

(iii) when the application refers to any proposed work, indicate generally the location of the work...."

There is another section on municipal corporations, but the one I think you are referring to says,

"(v) state that any person who has an interest in the application and who wishes to make submissions for or against the application when it is considered by the standing committee on regulations and private bills should notify the clerk of the House in writing."

Mr. Chairman: The standing orders are what we are guided by. Perhaps I can ask the staff here, has that been done?

Interjection: Yes.

Mr. Chairman: I understand that has been done. I think Mr. Shymko's point of order is about the changes that have taken place. They have not taken place yet, Mr. Shymko. Until the amendments are moved, they have not taken place. I am ruling on that point of order that the standing order is broad enough to cover a bill plus any amendments that might take place, because the purpose of notification has been accomplished. I am ruling against your point of order.

Mr. Shymko: If I may comment on--

Mr. Chairman: No, you cannot make comment. I am ruling against your point of order. If you wish to appeal the chair's decision, you can do that, but otherwise it is not debatable.

Mr. Bermingham: It would not be appropriate for me and I would not purport to raise this in the context of a point of order. All I am asking you is whether you are satisfied, as a matter of policy, that people who follow the prescribed means for getting notice would be aware of the change that will take place with the motions that have been filed. The bill is now significantly different from the one that was advertised. That is all I would ask you to consider; as a matter of policy, not as a matter of law or jurisdiction of this committee. I just ask you to ask yourselves whether the

members of the public who own the buildings affected by this legislation have been put on notice of the change. That is the end of that point.

Mr. Shymko: On a point of clarification, can you just indicate to the committee which motion applies to that change?

Mr. Chairman: What change?

Mr. Shymko: To the change originally made, the lien to be changed to imprisonment and jail.

Mr. Chairman: No, that was there. That has been there. The question Mr. Bermingham asks is one as to who is going to be the subject of that. I think that is what he is raising, the purchaser--it could be any number of people, I suppose. As well, we have a letter on file that the people who expressed an interest as a result of the advertising that was put forth pursuant to the standing order were also notified by the city of the changes. I gather that is correct.

Mr. Bermingham: Good. The only question is the ones who might have been content with the original form of the bill but who would be upset by the present form, if amended. That is my only concern and I raise it as a matter of policy, not as a matter of law. I leave the law to the people who know something about the law of the Legislature.

I would just like to summarize by reiterating, if I may, that the preservation of these buildings will work only in an atmosphere of co-operation, in an atmosphere where both sides, the public and the owner of the building, stand to gain from its preservation.

I cannot emphasize enough that taking steps, either rationally or irrationally, to create the idea in the mind of a developer that a heritage building is encumbered with special rules and restrictions is, in my view, the wrong approach. The right approach is to imbue those properties with special privileges, make them little gold mines so that a developer, whether he is sympathetic to the building or not, cannot afford to tear it down because it is worth so much to him in terms of his planning approvals.

You could do that in terms of increased density, in terms of expedited hearings, giving developments that incorporate a heritage building a special fast track through the city. You could do all sorts of things to make it in the developer's interest to go immediately to the city to find out how he can incorporate the building.

As you have heard in the city's submission, the approach here is more the stick approach. "Let us put enough rules in place that the developer must come to us." While that process will work in some cases, it will not work in others. As I have indicated, the unscrupulous ones will find a way around it. An unscrupulous one, if he wants to get his demolition permit, will apply for a very simple building. All he needs to apply for is a 100-square-foot building. If he gets a building permit for it, he is legally entitled to his demolition permit and away he goes. If you create an atmosphere where people are looking for loopholes, they will find them. If you create an atmosphere where people are looking for solutions and ways to preserve buildings, then they will find them.

You have a perfect vehicle, which we are committed to participating in, in the province's heritage review. We are determined to find a better way to

approach both the problem that Bill Pr57 addresses and the basic problems that exist now in the Heritage Act. The Canadian Institute of Public Real Estate Companies is not opposed to having more teeth in the heritage legislation. All we want is a fair bill. It should probably have more teeth, but it is not ready to have more teeth yet. There is too much work to do on it.

By having the bill under active review, the province itself recognizes that. We are participating in that process and we are committed to seeing it through and coming out with a bill that has the endorsement of the development industry rather than a bill or a legislative scheme that comes out with the development industry and the city staring at each other from opposite corners and having a hostage heritage building in the middle.

It just will not work. I ask you to very seriously consider it. We are not opposed. We are not foaming at the mouth to tear down heritage buildings. We are anxious to preserve them, but it has to work both ways. The worst thing this bill could do would be to prejudge the outcome of that heritage process review by putting in a piece of legislation that, once in, may be difficult to remove. Once you put something in, it is hard to take it away. In our view, it would be a tragedy if that occurred because we think we can do much better, given the extra few months it will take the province to complete that overall review.

I appreciate your committee's concern for the problem and I appreciate the city's concern for the problem, but a better solution is within reach.

With respect, that concludes my remarks.

Mr. Chairman: Mr. Winberg, do you have anything to add to that? Perhaps you would like to do that before I open it up for questions.

Mr. Winberg: I filed with the clerk the resolution of the Urban Development Institute and I ask that it be entered into the record.

Mr. Chairman: Yes, we have that and it will be marked as an exhibit in the hearings.

Mr. Winberg: For the benefit of those members of the committee who are not familiar with the Urban Development Institute, it is a Canada-wide organization with a very active Ontario chapter, representing the major developer-builder interests throughout Ontario. There is a distinction between the development institute and CIPREC in that CIPREC is the public real estate companies operating primarily in the downtown area. The members of my organization operate in the downtown area, but also operate in the many municipalities of the province.

Between CIPREC and the UDI, you have represented before you today the most substantial and responsible members of the development community, a community that supports preservation of heritage buildings, but that seeks and would hope that this committee would maintain the balance in the negotiating process relating to heritage. UDI does not see that the requirement of a building permit will in itself promote the preservation of heritage buildings, nor as the city has indicated as its other concern, prevent the creation of parking lots.

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One of the matters that has not been exclusively stated--I just want to be sure on behalf of the membership of UDI that the committee appreciates it--when the city says in its proposed legislation, "Get a building permit," in a few very short words it is saying a great deal. Most of the properties we are concerned with as being candidates for heritage preservation are designated for site plan control. Under the Planning Act, no redevelopment of those properties can take place until a site plan has been agreed upon and in most cases a site plan agreement reached.

Given a responsible developer coming in with a property that is either listed, about to be designated or designated, negotiations are going to go on for some time. A point may be reached in a case--perhaps we can look at the extreme case to test this legislation--where the developer says: "No, I cannot feasibly and economically redevelop this property and at the same time retain it. I am going to pursue demolition."

The developer is then off to make an application for a site plan. If members of this committee will just pause at that situation for a moment, in walks a developer with a site plan or a proposal for redevelopment of the site that shows the site vacant and a new building going up. The city says, "No, we still see a building there." The site plan is not going to be processed. Council is not likely to agree to that; I make these remarks all in the context that council is operating in good faith and in accordance with the law.

The developer is then faced--this is long before getting a building permit--with an appeal to the Ontario Municipal Board. The municipal board is going to be in a very difficult situation, given the lack of guidance that any of the legislation it will be operating under provides. The municipal board is going to be asked to settle a site plan and in very real terms to impose an agreement. That agreement will articulate how redevelopment is to take place. You are going to be placing a very significant obligation on the municipal board, one that I suspect it will have great difficulty with, because it will be in effect deciding how that property is to be redeveloped knowing that the entire process under the Ontario Heritage Act and Bill Pr57 has really yet to begin.

In any event, in terms of this balance and the time we are talking about, there has been a time for negotiations. On time, we are now talking easily about six months and more likely a year to 14 months before the municipal board has settled the site plan. Then we are faced with the building permit application once the site plan has been settled, if it is settled. We know again that the city, assuming it is in good faith and within the law, will take advantage as part of the negotiation process of those remedies available in the law. To force a building permit requires an application to a district court judge with an appeal as of right to the Divisional Court. Therein, we easily have another year to two years in court proceedings and this is after, as Mr. Lewinberg has indicated, full plans and money has been spent and expended.

While the act says, "Get a building permit," I want to be sure this committee does not think it is something readily obtainable out of a municipality such as the city of Toronto under the Building Code Act and Planning Act legislation.

When you look at that kind of process, at the time involved and the commitment of money and energy, it is certainly my submission on behalf of the

UDI that with those built-in delay periods in addition to the other delays, and with good faith efforts to negotiate before all that, as to the resolve by the time we get a building permit and find ourselves into the situation under the act where 180 days will start to run, you are going to discourage the demolition, as the CIPREC brief indicates. You are doing nothing in a positive way that would encourage retention of buildings. In addition, we say it is grossly unfair.

With respect to two small points relating to the legislation and the drafting itself, it is suggested in the act that there is an appeal to the Ontario Municipal Board with respect to the treatment of owners by council under Bill Pr57. In section 4, it says, "Where a person who has been refused by the council under subsection 2(1) or 3(1) of this act...." Those are the initiating application provisions. By putting them in section 4, it seems to imply that the refusal of a demolition permit in the first instance might be the subject matter of an OMB appeal.

The reference in the opening words of subsection 4(1) to subsections 2(1) and 3(1) is meaningless because when you read on, the appeal to the OMB does not in any way provide for a review in a substantive way of the refusal to grant demolition. The board is not put in a position where it can decide whether the building ought to be preserved or retained in whole or in part. The only power the board has is whether the two-year time period should be relieved in one case, or in the other case, when the builder or developer ought to be relieved from building the building that he got the building permit for.

There is a defect in those words in the act. By reason of them being there, it will be presumed by the courts that they mean something. If you read the draft legislation carefully, they mean nothing. If the public is going to presume that the OMB is going to somehow be in an appellate or advisory or, I should say, supervisory capacity, regarding the substance of the process, that is not the case.

The second point relating to the drafting of the bill is that I urge upon you the point Mr. Bermingham has made as to who is going to bear the obligations of this act in terms of building that building, as to who will be charged and as to who will be the person who has the opportunity to apply for extensions and relief from the two-year time period relating to that building permit.

Finally, with respect to retroactivity, I certainly do not take any issue from a legal point of view as to the ability of the Legislature to enact retroactive legislation. I say to you that it has been a long-standing tradition with respect to property rights that retroactivity only be entered into after very serious consideration. We know from the materials that have been put before you by the city that there are several properties that have already gone through the process. In my respectful submission, any property that has gone through the Ontario Heritage Act process prior to this bill coming into force ought to be relieved of it. It is most inappropriate for people who are in a position to demolish and build now to be called upon to go back through the process, as contemplated by this legislation.

Mr. Chairman: I am going to proceed by starting with the representative of the third party, then the official opposition and then the government. Ms. Bryden, you seem to be the person who will be asking questions for your party. I ask each member to recognize the fact that we are substantially behind time. I might even indicate to Ms. Foran and the people

who are with her that we are not likely to reach them until after routine proceedings this afternoon. I do not think there is any possibility. If you want to stay, we are happy to have you here, but if you wish to leave--is that realistic? I do not think we are going to reach the final delegation. In fact, we have an extra person here, Gene Domagala, who was slotted for 11 o'clock. As you can see, we may not even reach him until after routine proceedings.

Mr. G. I. Miller: Are we making amendments to the bill that will be satisfactory to this group that has made the presentation this morning? I think you have gone through it in a lot of detail.

Mr. Shymko: You are stealing my question.

Mr. G. I. Miller: In the interest of time, it is a private member's bill and we want to be fair.

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Mr. Chairman: I understand there may have been brief amendments that have been agreed to with reference to one item between you and the city. That is my understanding.

Mr. Bermingham: Yes. We saw it this morning and I discussed it yesterday evening. The amendments are clarifications. They do not address the thrust--

Mr. Chairman: They do not address the issues you have just addressed before us.

Mr. Bermingham: We do not object to them--we are grateful for them--but they do not satisfy us.

Mr. Chairman: They do not do anything for the points you have made at this point.

Mr. Bermingham: No, sir.

Mr. Chairman: Does that help you, Mr. Miller? I would like to get on with the question I was originally addressing. Certainly Ms. Foran and the other people are not going to be reached. I ask the committee members whether they believe we are going to reach Gene Domagala before 12 o'clock or if he wishes to come back after routine proceedings, which is roughly about 3 to 3:30 in the afternoon.

Mayor Eggleton: Unfortunately, I would not be able to come back this afternoon.

Mr. Chairman: You had better come forward to be picked up on Hansard. There is some importance that you be picked up on Hansard.

Mr. Domagala, can you come back this afternoon?

Mr. Domagala: Certainly.

Mr. Chairman: You are welcome to stay. We may reach you this morning, but I think it is highly unlikely and I do not like to waste people's time if we can help it.

Mayor Eggleton: Perhaps I may beg your indulgence to respond briefly to some of the matters that have been raised this morning concerning our bill. Unfortunately, I cannot come back this afternoon, so perhaps I could just take a minute of your time. Mr. Bermingham and the delegation from CIPREC and the Urban Development Institute brought in the question of honey versus vinegar, the question of whether we should be providing incentives versus regulations with respect to this matter.

We do provide a great deal of honey. We have over the years tried to provide a great deal of incentive: density bonuses, density transfers, parking and loading exemptions for the preservation of an historic building, grants where we put in money from the municipal coffers and grants that we help administer for the province with respect to the preservation of architecturally important buildings. There is a great deal of that.

Notwithstanding that, we still have this problem and that is why we are here. It was not just the old stock exchange building that precipitated this, as Mr. Lewinberg suggested. As we indicated last time we were here, we have been looking for this kind of protection for a great many years.

The upshot of the CIPREC presentation was that if the city wanted to stop parking lots from replacing historic buildings, why do we not do something through the zoning bylaw, through our official plan? As we indicated before, it is not just a question of parking lots. That is really a minor aspect of it. It is just tearing it down and leaving the lot vacant. They may or may not put in a parking lot; that is really a minor issue. In some cases, they have just left it plainly vacant with nothing happening there.

We want the opportunity to be able to get into discussions with these people before they take that action because once the action is taken and the building is down, it is gone. There is no discussion; there is no negotiation.

They still have the upper hand in terms of property rights because there is a legal process provided by the Planning Act that they go through. If they cannot come to an agreement with the city, they have recourse to the municipal board. Ultimately, we can be forced to issue a building permit and this has happened on many occasions. Therefore, they are entitled then to their demolition permit. The property right is ultimately there and in their hands.

They have suggested we should be more co-operative in terms of telling them what buildings are really important to us, yet as Mr. Bermingham admitted, there is a listing of some 2,000 structures that we consider important. We do not divide them and say, "These are more important than those." We consider them all important and we provide that list.

Of course, all these developers have legal staff hired to check all these things out with the city and they know full well and they can talk further to the planning department or the historical board with respect to understanding the reasons for listing if they want to know. More than half of the buildings on that list already have the kind of protection we are here asking for. More than half of them already have it, simply because they are residential buildings. They already have to have a building permit before the demolition permit is issued. All we are doing is asking that the remainder of the buildings, which are some of the finest buildings in this city, be protected in the same way. Most of those remaining buildings happen to be commercial buildings so they do not get the protection that more than half of them get through the residential provision.

The organization here today, most of the people they represent, both of these organizations, are people we deal with all the time and by and large we have been able to deal with them satisfactorily with respect to this matter. The stock exchange building is a good example of where we have been able to--in spite of the threat, they did put in an application and of course that sort of forces the issue, but we got into discussions and I think they are well on their way to saving it.

However, there are a lot of other people who they may or may not represent who do not have that attitude at all. I have sat with them in a room where they could not understand how a historic building could possibly fit in. They are not as open-minded as others and we want to have the opportunity to show them that you can keep these buildings and make good use of them and blend them into new developments. If in the end we cannot convince them, they still have their rights to proceed. There are a lot of buildings where we did not get the kind of co-operation Mr. Bermingham and Mr. Lewinberg indicated their members would certainly want to give us, and that is why we need a bit of this regulation to go along with all the honey we provide in terms of incentives.

Just a couple of other very quick points. The brief suggests: "The historical board is made up of some well-meaning citizens. They are trying to preserve buildings, but what do they really know about the finance of development?" First, let me say the historical board is a city agency with very professional staffers who have a great understanding of architectural conservancy and who provide us with expert advice. They consult with the planning and development department; they did on this. The planning and development department is quite agreeable to this. That has been done. The city council, together with its planning and development department, all its expert staff, who have an understanding of the total picture with respect to development, feel this additional regulation is required.

That is the submission I leave with you, Mr. Chairman. I am sorry I cannot come back this afternoon. Councillor Kanter and the staff that is here now will be back this afternoon.

Mr. Chairman: Then we will reserve anything Mr. Kanter has to say until this afternoon because I think, in fairness to these gentlemen, that they were in the middle of their presentation and were going to be asked questions by the committee members.

Mr. Shymko: Just on a point of order.

Mr. Chairman: Let me determine whether this is a point of order. What is the point of order?

Mr. Shymko: Mr. Chairman, you have used your discretion to allow his worship the mayor to reply to the presentation of a previous witness. There are certain things his worship has said that some of us may want to ask for a clarification about. As the mayor will not be here in the afternoon, I wonder whether you can use the same discretion to allow any member who may want to ask a question of clarification about what he has said to do it briefly now, because we will not have the opportunity to address some of the things he has said. I have two questions to ask the mayor and would appreciate you, Mr. Chairman, allowing me to ask those questions.

Mr. Chairman: I am going to ask for some assistance from the committee because I think the gentlemen who made their presentation were

before us and were about to be questioned. They were kind enough to accommodate the mayor by allowing him to make a statement since he cannot be back this afternoon. If I allow you to ask a couple of short questions, Mr. Shymko, I am sure there will be other questions and we will not be able to deal with the issue. I am prepared to abide by what the committee members think is fair. It is not a technicality, nor is it a ruling the chair could make.

Mr. Shymko: I ask the committee through you, Mr. Chairman.

Mr. Hennessy: I move Mr. Shymko be allowed to ask the questions.

Mr. Dean: I feel the other way, that we owe it to the delegation we were already hearing, who graciously allowed us to interrupt them, to speak their part of it first.

Ms. Bryden: As the other representatives from the city will be here this afternoon, we can ask them for clarification if any member here thinks that clarification is needed.

Mr. Chairman: I was looking for unanimous consent. I do not think I have it.

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Mr. Hennessy: Let me just say about what Ms. Bryden has said that the mayor's interpretation may not be the same as that of somebody working for him. Come on, I am not going to go and argue publicly against my leader if I want to be around. Let us be honest about it. Like anything else, you cannot expect somebody working for the city to come up and say he disagrees with the mayor. Then he can run for mayor.

Mr. Chairman: As I said, I was looking for unanimous consent. It would appear I do not have it. To be fair, I think it is probably going to have to be in the form of a motion and voted upon, so we can get on with the matter.

Mr. McKessock moves that the committee allow time to question both groups before lunch.

Motion agreed to.

Mr. Chairman: I have grave doubts that we are going to get to question both groups, but go ahead, Mr. Shymko.

Mr. Shymko: As I indicated, I just have two questions to his worship the mayor, one with regard to the fact that he had listed a number--

Ms. Bryden: On a point of order, Mr. Chairman: We are allowing only one question per party on any other questions today.

Mr. Shymko: No, I have never heard of that.

Mr. Chairman: No, just one questioner per caucus. I would never reduce it to one question.

Mr. Shymko: Thank you for this clarification, Mr. Chairman,

Your worship, you indicated that you do provide some money. It is not all de rigueur. You indicated such incentives as various exemptions, grants, etc. With regard to one particular case cited in the presentation by the previous witness, the Joy station, it is assumed by the previous witness that if Bill Pr57 had existed, it still would not have prevented the demolition of that particular site. Were any incentives given to the builder at that particular site?

Mayor Eggleton: Unfortunately, the builder really did not want to talk about it at all. This is the kind of problem we are experiencing in some cases, not with a lot of the CIPREC members, but in cases such as this. He did not want to talk about it at all. He just wanted to go in and demolish. In fact, a lot of the demolition started on a long weekend when it was very difficult to get any stop work orders. It was a situation where the developer and the builder were determined to do what they were going to do and they were not going to talk with us about it.

Mr. Shymko: Did you offer any incentives to that builder?

Mayor Eggleton: We certainly tried to do so. We certainly tried to talk to them about preserving the building and still providing for a complementary development to it.

Mr. Shymko: I understand you provide some incentives to the present Olympia and York developer of the Toronto Stock Exchange. There are negotiations going on.

Mayor Eggleton: Yes, there will be incentives. There are many incentives in the central area plan of the official plan.

Mr. Shymko: In some cases, you provide incentives to a developer. In some other cases, because of the confrontational nature, you do not.

Mayor Eggleton: We are willing to sit down and talk with all of them. In some cases, you just cannot get to first base.

Mr. Shymko: My second question is with regard to an issue where we have a question about a building. You have some 2,000 designated buildings.

Mayor Eggleton: Listed.

Mr. Shymko: Someone mentioned the figure of 2,000 listed buildings. Are there any buildings in the city of Toronto that may qualify for listing that are not listed?

Mayor Eggleton: It is an ongoing process of examining buildings. I suspect that much of the work has been done, but sure, there are buildings added from time to time.

Mr. Shymko: Community demands and requests by way of requesting the Toronto Historical Board to designate a building, or concern and public reaction from communities to the city council asking for the protection of a building, sometimes may get it out on the listing.

Mayor Eggleton: We do not put it on the listing just because it is asked for. We have a professional staff that goes out and checks it and determines whether it meets the criteria for listing, and there are reasons given. It is not just because somebody wants it listed. There have to be good

reasons. There are a number of points of criteria, relevant to a historic event, a historic person and architectural context.

Mr. Shymko: My last question is geared towards the Colonial Tavern. There seems to be some doubletalk by the city council, on the one hand, to protect it, to be sensitive to citizens' concerns in protecting certain buildings, and on the other hand, when the city council becomes a sort of 'quasi-developer' itself, you just go through and demolish a site notwithstanding what the public may feel. Is the Colonial Tavern, for example, a building that may qualify for listing?

Mayor Eggleton: Not the building in itself. The building was listed because of our concern about two bank buildings that are on either side of it. What is being proposed by the city in the demolition of the Colonial Tavern--

Mr. Shymko: You would have a public--

Mayor Eggleton: Yes. The building is not listed because of its own architectural merit or historic merit itself. It was only listed because of a concern about its demolition causing a problem for the two buildings on either side of it, which are fine historic buildings that are listed and which we do want to have preserved.

What the city is suggesting we do here is to demolish this building and create an open public square. We will be making improvements to the side walls of the bank buildings, which is what we want to accomplish. Everything we wanted to accomplish with respect to historic preservation in that block will be accomplished.

Mr. Shymko: If the Colonial Tavern had been a designated building, you would have demolished it on the basis of plans.

Mayor Eggleton: No, I do not think so. If we had designated the building, then we would not demolish it. As I say, the only reason it was listed was because of the concern about the two buildings on either side of it and we have been able to preserve those buildings.

Mr. Shymko: I am still confused. My understanding is that the gist of the whole purpose of the bill is to have a building permit and plans for a new site that would be approved prior to a demolition permit being issued--

Mayor Eggleton: That is correct.

Mr. Shymko: --but in some cases you may have such excellent plans that, if approved, may even destroy designated and listed buildings, as in the case of the Joy gas station which, it is my understanding, was designated by the Toronto Historical Board. It was demolished anyway.

Mayor Eggleton: That was a case where the builder just would not co-operate. That is the very kind of thing we are trying to cover by this bill.

Mr. Shymko: So you prefer nonconfrontational requirements.

Mayor Eggleton: Absolutely.

Mr. Chairman: You are getting into your third question.

Mayor Eggleton: If we sit down with these people right from the

beginning and if there is an effort to co-operate and work out a solution, I think we can do that and speed up developments. People will cite all the hurdles they have to go through for development, but there is a lot of development going on in this city. We do facilitate--

Mr. Chairman: I am going to try to speed up developments here, too, Mr. Shymko. Are there any questions from other members or can we bring back the original?

Ms. Bryden: I would just like to say that I think the mayor has given us the basic facts, that there is no room for negotiations for heritage protection if the building is gone and that The Planning Act is weak as far as giving the city power to stop the process of demolition of heritage buildings is concerned. Without this legislation, we will lose anywhere from 10 to 20 or 30 buildings. I understand we have already lost 12.

Mr. Chairman: I think we should let the people who were speaking in opposition to this come back and be asked some questions before we--

Mayor Eggleton: Thank you.

Mr. Chairman: Mr. Kanter, I am going to exercise the chairman's prerogative and ask you to wait until this afternoon. I do not think it is fair to the other witnesses. Would the gentlemen like to come forward then and we will see if we can get some questions in between now and 12 o'clock?

Ms. Bryden is first. Who will be asking the questions for the official opposition? Will it be Mr. Dean?

Mr. Dean: Mr. Shymko is a resident of Toronto. Provided he can confine himself to one short question, I will accede to him doing it.

Mr. Chairman: Then Mr. Lupusella for the Liberal Party.

Ms. Bryden: In the interests of time, I will be very brief. I would like to ask Mr. Bermingham a question. Are you aware that the Ontario heritage policy review, which is outlined in this book that came out in April, will be a very long process? It is only at the stage of inviting comments on this white paper. It would be two or three years. Do you think it is reasonable to let the demolitions go on in the city of Toronto without legislation that would require negotiation and stop demolitions without plans for a period of three or more years until the Ontario heritage policy review is completed?

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Mr. Bermingham: First, we are more optimistic about the timing of the completion of that review. As indicated, we have been participating in it. We have been invited to submit a brief and we will be doing so in the next few months. I believe our brief is to be in by the end of the summer. We hope that with our participation and the technical assistance we can give, we have no need to waste two or three years. I believe there was some discussion on the timing of that review last Wednesday. We certainly think the issue is important enough that it be done in the context of that review. I hope, Ms. Bryden, that it will not take as long as that. I hope that as much as you do. We need a better heritage act.

Ms. Bryden: My experience in the Legislature, and I have been there 11 years, is that this sort of process is a very long process.

You mentioned that you think the property rights of owners will be affected and there will be no compensation. I am sure you are aware that is part of the planning process, that zoning removes property rights without compensation and, in effect, removes them under the Planning Act to meet the public interest. There are always different interests and these municipalities have been given the function under the Planning Act of meeting the public interest. The city of Toronto has found that it does not have adequate power to protect heritage buildings. Therefore, this would be companion legislation to the provincial Planning Act, which I think is unfortunately defective in this area of allowing insufficient time and not requiring plans to be ready before any demolition permit is issued.

Incidentally, I tried to amend that act when it went through, but that is by the by.

Would you not agree that it is legitimate for a municipality to be given the power in the public interest to see that there are plans for any heritage building before it issues a building permit?

Mr. Bermingham: Again, as I tried to indicate in our brief, we have no objection to strengthening the Ontario Heritage Act. Our problem is that both from the city's point of view and from the developer's point of view, there are problems in the act that make it an inadequate foundation to build on.

For example, there are not adequate appeal remedies. Let me just expand on one area of that. The heritage act contains an absolute prohibition against making alterations to a designated building. This means that if the owner and the city--there is no appeal at all from that refusal by council. You can refer it to another board but all it can do it make recommendations. They cannot overturn the council's decision. If an owner wants to incorporate a heritage building by knocking out a wall and putting in a partition, linking it up with a new building, and the city says no, you cannot appeal anywhere in the world from that decision.

That puts the thing on a very unfortunate and unnecessarily blunt choice. The owner's rights are legal demolition, proceed to get his building permit even under this act, at present proceed to wait out the 180-day period and exercise his legal right to demolish; or give in and never make the development. That is a flaw. Why have it so blunt? Why not put in a right of appeal to the Ontario Municipal Board to allow alterations? Those are the kinds of improvements that--

Mr. Chairman: Which act is it that does not contain the appeal, the Ontario Heritage Act?

Mr. Bermingham: The heritage act contains no appeal from a decision of council to refuse permission to alter a building. This is just one area where we would like to see an overall review. There is no need to put the city and the developer at loggerheads over a point like that. Let us have an independent body decide the matter. We want to see a better foundation before we confer additional powers. We have no objection to additional powers once the better foundation is laid.

Ms. Bryden: Mr. Bermingham, I am sure you are aware that OMB

hearings often take many months, and unless there is some means of stopping demolition during that period when the 180 days has run out, you will in effect lose the building by using the appeal process. The mayor has pointed out that once the plan for the area has been adopted by city council, there is an appeal to the OMB. I am sure you could deal with the problems you are mentioning under that appeal procedure. It will be there, but you must have the stop on demolitions beforehand or you have thrown out the baby with the bathwater.

Mr. Chairman: I do not think that was to evoke a reply, Mr. Bermingham. I think that was a statement.

Ms. Bryden: Thank you, Mr. Chairman.

Mr. Chairman: You are welcome, Ms. Bryden.

Mr. Shymko: I would like to start my questioning with the last remarks. I believe it is Mr. Weinberg.

Mr. Winberg: Winberg.

Mr. Shymko: You made reference to section 4 of the bill and some concerns you have had. I understand the position of both the Urban Development Institute and CIPREC is basically to defer the bill until we have two major studies we would use, one at the provincial level and one at the municipal level and then proceed with any type of bill. In the concerns you have expressed about one particular section, do you want to make some recommendations of any amendment to that section or do you, in light of the basic thrust of the recommendation from CIPREC to defer the entire bill, hesitate to do so?

Mr. Winberg: As I say, my comments were to be taken in addition and this was an additional point I did not think had been raised. With respect to the drafting, no, I do not have a draft in my respectful submission. Consistent with the position we have taken, I say if you accept the premises upon which the bill is to be drafted, in my view there is a great deal of work to be done on the wording of the bill.

I pointed out with respect to section 4 that two subsections are mentioned that I, for the life of me, cannot see any meaning to or purpose of other than perhaps to give the impression that somehow the initial decision by council to refuse demolition is going to be reviewed by the municipal board. A lot of care is taken in drafting and unless someone is prepared to take all of this back, unless someone can tell me I have misread the act, I just do not see any purpose in those words. I think it is another indication of the confusion and haste, and I say this respectfully, of bringing this bill forward without the completion of the studies we have talked about.

Mr. Shymko: You have indicated the word "confusion." My concern was whether that section was misleading, because if it does have the attributes of being misleading, I certainly am concerned that it would have to be clarified.

I would like to state the neutrality of the members of this committee, who will pursue any private bill in a nonpartisan fashion and will try to maximize the quality of any private legislation passed through this committee as the best possible legislation. I do not know what the outcome of the final vote on this private bill will be. It would be helpful if at the stage of clause-by-clause deliberations, some of us have some proposals for amendments

to particular sections. This is why I am raising the point. If it is a major concern, we, and certainly I speak on behalf of all members, would be quite pleased to have any amendments to any sections that would improve the quality of the bill in terms of the purpose and the impact, which I understand you generally share in terms of preserving buildings and preserving--

Mr. Winberg: The aim?

Mr. Shymko: Yes, the aim you share.

Mr. Bermingham: Unquestionably we support that aim.

Mr. Shymko: That was my first question to you.

The second question, and you may reply to it, Mr. Winberg, or we may have a reply from Mr. Bermingham, is on the whole area of the two present studies and reviews at the provincial and municipal levels. I think it is the core of your argument that, first, at the provincial level, we may have more public input. A statutory act, a provincial government bill that is presented before the appropriate standing committee--an amendment to the heritage act most likely will not go to this committee but will go to the standing committee on social development or some other committee--has a wider scope of public deliberations and witnesses and so on. Your concern was that there is a lot of ignorance out there as to the existence, even, of this particular private legislation. You would recommend that--

Mr. Chairman: Is this a question, Mr. Shymko, or are you stating Mr. Bermingham's position?

Mr. Shymko: In the light of your concern about the ignorance of many individuals as to such things as terms of imprisonment, for example, of very strong aspects of this bill that a lot of people do not know--they are not aware of this legislation even being here--would you argue even further, strengthen your argument that we defer and wait until there is a policy review and an official amendment to the Ontario Heritage Act that will provide a wider scope of both input and information?

1150

Mr. Winberg: Yes. In my respectful submission, the amendments to the Ontario Heritage Act, through the policy reviews initiated by the foundation and as well as further comments by members of the public, generally would be the appropriate way for the legislation to proceed in response to the city's application for this legislation.

Mr. Shymko: You believe this bill would prejudice the outcome of such a review.

Mr. Winberg: As I say, in my respectful view, requiring a building permit for something that will not preserve a building is not the right way to proceed to try to save those buildings. In my respectful submission, that is a fundamental flaw of this legislation.

Mr. Chairman: Mr. Shymko, in fairness, I am going to move on. You have had three or four questions. Unless you have one more brief one, I will move on.

Mr. Shymko: Mr. Chairman, I have sat on this and on many committees.

I have never experienced a unilateral decision by the chairman to cut off questioning from the critic of Her Majesty's official opposition when it has been agreed to by my colleagues that I would question the witnesses on an issue that is important to myself and everybody. You will unilaterally rule that I cannot proceed with questioning.

Mr. Chairman: No, I did not.

Mr. G. I. Miller: Be fair now.

Mr. Chairman: Just a second. Mr. Dean authorized you to speak for the official opposition with a caveat.

Mr. Shymko: Yes.

Mr. Chairman: That caveat was that you ask one brief question. You have now had three of them and they have not been questions; they have been statements. Please, if you have one further short question, ask it, and then in fairness, let us get on to the other party in terms of asking a question.

Mr. Shymko: I understand Mr. Dean's request was that he wanted to ask a short question.

Mr. Chairman: No, he indicated he was giving you power of attorney to ask the questions.

Mr. Dean: I feel that my designated spokesman has used my time. In fairness to the other parties, which I expect would be fair to us in a similar situation, I think it is their turn.

Mr. Chairman: I am going to give Mr. Shymko one short question, if he has it, and then move on to the next party. Mr. Shymko, do you have one short question?

Mr. Shymko: I am not used to this. My short question relates to the urgency of the present need expressed by the city that there are certain sites designated for demolition and that this is the purpose of presenting this bill. You have suggested some solutions. The solutions you have indicated in terms of cases of perceived urgency or genuine urgency are a number of these.

First of all, you have indicated there is a way to defer the bill subsequent to these two studies and there are ways of stopping it. Can you clarify for me what you mean by full ownership to a short-term possessory interest for the purpose of forestalling a demolition? What is full ownership, short term? Another suggestion you have as a solution is to expropriate any form of interest in a heritage property. Would it mean total compensation or negotiated compensation? What do you mean by that?

Another solution you have suggested is the bylaws, which may stop some of the conversions into parking lots. Can you just clarify for me that indeed some of the sites you see that are perceived to be urgent or that are genuinely urgent can, through your suggestions, be resolved without breaking the present negotiating entente that exists between builders and the city council? Can you in fact preserve those present sites that I know you are aware of and that the city may have listed or spoken about?

Mr. Bermingham: It is our understanding that in the vast majority of those 12 cases that are on a sort of endangered list, negotiations are

proceeding well and within the current context in perhaps all but two of them. I do not know the status of the other two. I am not personally involved in them, but I understand one of them is outside the central area again, so you have the problem that there is no built-in incentive for preserving the building.

Mr. Shymko: Which building are you referring to?

Mr. Bermingham: Another Joy gas station out on the Danforth, out past the boundary of the central area.

I just do not know the status of the other one. I believe it is a building on Bloor Street and is somehow connected with the University Theatre. I understand there is a problem with the designation of the University Theatre. I am taking this at second hand, but what I understand to be the case about the University Theatre is that it has been designated but the objective of the designation is not to preserve the building but to get the developer to build a new theatre in the redevelopment. I understand the numbers of these two buildings are consecutive, and I do not know that it is the same developer. We have the list. The new list was published. We just got it yesterday and we are doing our best to figure it out.

Let me move to the second aspect of your question, which was expropriation. Assuming that it is not enough to just take away the right to use the site as a parking lot and therefore take away revenues from parking, when the Ontario Heritage Act was first proposed, the studies and the discussions in the Legislature indicated that the purpose of the 180-day period was to permit the city to purchase or expropriate the property.

That costs money. It probably costs too much money to use in every case and that is why density is a good incentive to use, rather than money. But the fact is that this is the purpose of the 180 days. It is not to be a roadblock to the developer. The idea was that if the city could not come to terms, it would have enough time to effect an expropriation, which, if you rush it, you can do in about 70 days. You have enough time to start expropriation proceedings.

What I meant about short-term or full ownership is that you do not have to buy, through expropriation, permanent ownership. You could take a six-month or a one-year possessory interest in the building. If that costs the developer, if that damages him, then the Expropriations Act gives him a right to claim and try to prove compensation. Again, it is an extreme remedy, but in most of these cases, it never seems to get to that extremity. They make a deal because the parties are roughly equal. The city hands over density, which it has in its pocket, the developer preserves the building and the dynamics work.

Mr. Shymko: So I hear--I am just going--

Mr. Chairman: No, may I interrupt, Mr. Shymko--

Mr. Shymko: I hear that this is--

Mr. Chairman: Mr. Shymko, I have given you great latitude because you are a member from Toronto, but had you been here earlier, we would have had more time to ask questions. With the greatest respect, I am going to cut you off and move on to Mr. Lupusella.

Mr. Lupusella: With the greatest respect, I am going to raise a

question. The first question is to the parliamentary assistant, in relation to a regulation act that exists in Quebec. It came out in September 1986 and stipulates that the National Assembly--

Mr. Chairman: Mr. Lupusella, I do not want to interrupt you but the item that has been placed before you by the legislative library deals with the other side of our committee--

Mr. Lupusella: I understand. That is why I would like to ask the question because there is a relationship between the problem raised and something that we can develop to take into consideration--

Mr. Shymko: Could we hear the question?

Mr. Lupusella: --the problem that has been raised by the gentleman over here.

Mr. Shymko: Can you allow your--

Mr. Lupusella: Maybe the chairman can answer.

Mr. Chairman: I would hesitate to do that at all. Go ahead, Mr. Lupusella. I thought perhaps you were dealing with a question on the regulations.

Mr. Lupusella: No, we do not have such a regulation act in the province of Ontario. It exists only in Quebec.

I am wondering, based on the concern that has been raised by the gentleman when he made representation about the kernel of this particular bill, Bill Pr57, if there is any way this bill can be related to some sort of regulation whereby the Minister of Housing has some sort of involvement in case some problems develop as a result of the application of this bill. I think my question is greatly compared to the negative aspect presented to us by the gentleman in relation to Bill Pr57.

Even though, as I understand it, we have regulations based on the bill, our regulations will not consider the problems that have been raised. I am just wondering if we can amend this bill, not with a particular clause but to give the alternative to the Ministry of Housing to draft the regulations. I think the question I raise is extremely related to the problem.

1200

Mr. Chairman: Mr. Lupusella, I am advised by counsel that in a private bill you cannot have that type of regulation. In addition, the private bill is actually that of the city of Toronto. We have no right to amend it by our own action. They can bring forward amendments, either alone or in conjunction with any other people, if they wish to do so.

Mr. Lupusella: Thank you for the explanation.

The other question I would like to raise is in relation to subsection 2(1) of Bill Pr57. I would like to know, if possible, the relationship, how to reconcile the principle of power that the Ontario Heritage Act has on implementing this particular section, and the principle of the city of Toronto, which has the power to demolish properties or remove any building. I am a little bit concerned about all the power that has been given to the city

of Toronto and also the application of power that the Ontario Heritage Act has. I would like to know how we can reconcile the harmony between the two things, because I can foresee serious problems in relation to that.

Mr. Bermingham: I think that question needs two responses. The first is, as you say, can it be harmonized with the Ontario Heritage Act, which is a public act. Here I enter into an area where I think it is more a field of Speaker's rulings than things I am familiar with.

I think you do have a problem when you have a private bill that in effect does a little more than supplement the Ontario Heritage Act. It really directly contradicts the Ontario Heritage Act, which says that at the end of 180 days, if the city has not expropriated or purchased in the meantime, the owner has a right--in fact he regains his common law right--to do what he will with the property. This act simply says that notwithstanding the Ontario Heritage Act, that is not the case.

I think the real question there is whether this kind of power is appropriate for a private bill. That is again a question for your committee to consider.

The second branch of the question is, who should be the decider? I understand that is one of the principal questions the provincial review wants to undertake a study of; that is, to what extent should the power over these buildings be a purely local, municipal power and to what extent should the ministry be involved? It has both aspects. Some buildings in the city of Toronto are of provincial or even national significance; others have no provincial or national significance. There is a delicate balancing there that we are concerned this bill is going to give an answer to before we have had the opportunity for full study. Who has the power to decide is a question we think needs the benefit of full provincial review. I hope that answers your question.

Mr. Lupusella: Thank you very much.

The last question is in relation to clause 2(2)(b) in which the council has to "publish its decision in a newspaper having general circulation in the municipality." In Metropolitan Toronto, we know there is a makeup of so many ethnic people. Maybe they know how to read the newspaper, but in their own language. I was just wondering if you agree that the people affected by the decision should be notified through direct mail about a particular decision that has been announced by the council.

Mr. Bermingham: It is a concern of mine in any event. I think whatever can be done to supplement notice, whether you took a page out of the Planning Act and said everybody within 1,000 feet should get an actual notice, as they do of even a minor variance application--everybody gets a notice in the mail.

Mr. Chairman: It is 400 feet, is it not?

Mr. Bermingham: Yes, you are correct; 100 metres, 400 feet. I am sorry.

The other concern is simply a practical one, but it is one we all have to live with and that is how do we really give notice through newspapers. I have had senior members of our firm come to me realizing that their property had been rezoned. They cannot complain. The advertisement is done legally, but

the fact of the matter is it is very hard to follow every day what is happening in the legal notice sections of the paper.

I cannot complain about it. Practically, we need to have that kind of shotgun approach to notice, but I would like to see, as much as possible, a direct notice provision built in. It would have to be smaller. It would have to be in a confined area or something like that.

Mr. Chairman: We are adjourned, but before going I would like to urge all committee members to come here immediately after question period or routine proceedings are completed so we can move on. We have a number of people here who expect to have their bills dealt with. We have three bills and two more delegations. I think in fairness to these people we should get here right after routine proceedings.

The committee recessed at 12:05 p.m.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

INSTITUTE OF MUNICIPAL ASSESSORS ACT

ONTARIO INSTITUTE OF THE PURCHASING MANAGEMENT ASSOCIATION OF CANADA INC. ACT

HAMILTON JEWISH COMMUNAL PROJECTS ACT

CITY OF TORONTO ACT

WEDNESDAY, JUNE 17, 1987

Afternoon Sitting



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Callahan, R. V. (Brampton L)

VICE-CHAIRMAN: Haggerty, R. (Erie L)

Bryden, M. H. (Beaches-Woodbine NDP)

Dean, G. H. (Wentworth PC)

Hennessey, M. (Fort William PC)

Lupusella, A. (Dovercourt L)

McKessock, R. (Grey L)

Miller, G. I. (Haldimand-Norfolk L)

Pouliot, G. (Lake Nipigon NDP)

Shymko, Y. R. (High Park-Swansea PC)

Wiseman, D. J. (Lanark PC)

Substitution:

Cordiano, J. (Downsview L) for Mr. G. I. Miller

Also taking part:

Cousens, W. D. (York Centre PC)

McFadden, D. J. (Eglinton PC)

Clerk: Manikel, T.

Witnesses:

From the Institute of Municipal Assessors of Ontario:

Mingay, P. W. J., Legal Counsel; with Mingay and Associates

From the Ontario Institute of the Purchasing Management Association of Canada Inc.:

McDonald, R., Chairman, Professional Registration Committee

From the Hamilton Jewish Community Centre:

Barrs, R., Board Member

From the Toronto Historical Board:

Domagala, G., Member

James, R. S., Managing Director

From the City of Toronto:

Kanter, R., Councillor, Ward 5

Foran, P., Deputy City Solicitor

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS.

Wednesday, June 17, 1987

The committee met at 3:19 p.m. in room 151.

INSTITUTE OF MUNICIPAL ASSESSORS ACT

Consideration of Bill Pr63, An Act respecting the Institute of Municipal Assessors of Ontario.

Mr. Chairman: I recognize a quorum. We will deal with Bill Pr63. Perhaps, Mr. Cousens, you could sit down and introduce the people who are before us. I do not know if I can speak for all of the committee members--I believe I can--that it is fairly straightforward. We have the compendium before us, and unless there is something the deputants would like to add, we could move right into committee members' questions.

Mr. Cousens: As a former member of this committee, I see this as being a straightforward bill. I am pleased to have with me, on my immediate right, Paul Mingay, solicitor for the municipal assessors and, to his immediate right, past president Kornelia Jones, executive director Kay McGillivray and, behind us, Gord Carpenter, who is the current president.

I am pleased to present Mr. Mingay, who can give a short statement on what the meaning of the bill is. It will give that status before the law to municipal assessors.

Mr. Chairman: I would not want to deprive Mr. Mingay of doing that, but I think it is fairly clear in the preamble to the act.

Mr. Cousens: All right. In that case, if there are any questions, he--

Mr. Chairman: We are just going to go through that. We will go the way we had decided, one member from each caucus. Ms. Bryden, you are first.

Ms. Bryden: The institute sounds to me like a very valuable and important body, and the fact that it offers its courses through Fanshawe College indicates that the university recognizes its courses.

Is this to give a title to people who pass this course, or am I mixing it up with another bill? Is this just to set up the courses?

Mr. Chairman: This provides a title as well. It is to identify the professionals from those who might not have those qualifications.

Ms. Bryden: The thing that always bothers me is, does this exclude people who have equivalent qualifications from competing in the market, as happens in some cases?

Mr. Mingay: Not at all.

Ms. Bryden: Does it have disciplinary powers with those who do carry the title in order to see that certain standards are applied?

Mr. Mingay: Yes, it does.

Ms. Bryden: So it is a self-governing body, but it does not exclude other people from the market. That is the main thing I am concerned about. I think we have to be careful of self-governing bodies, that they do not become an association in restraint of trade. I would support it.

Mr. Chairman: Mr. Hennessy is going to be the speaker for the official opposition.

Mr. Hennessy: The member for High Park-Swansea (Mr. Shymko) is busy. I would like to ask the parliamentary assistant whether there is any objection on the government side.

Mr. Offer: No objection.

Mr. Hennessy: That is all we need. I would like to move that we support it.

Mr. Chairman: Are there any members from the Liberal Party who wish to ask questions? Since I see no hands, I guess we are ready to call the vote.

Sections 1 to 11, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill agreed to.

Bill ordered to be reported.

Mr. Chairman: That was painless. We will try one more, then.

ONTARIO INSTITUTE OF THE PURCHASING MANAGEMENT
ASSOCIATION OF CANADA INC. ACT

Consideration of Bill Pr65, An Act respecting the Ontario Institute of the Purchasing Management Association of Canada Inc.

Mr. Chairman: Mr. McFadden, perhaps you would introduce the people before us. I speak for myself and, I believe, for the other members of the committee in saying that the bill and the preamble set out pretty clearly what the purpose of this bill is. Although I would not want to deprive anyone of the opportunity to say a few words, perhaps in the interests of time you would let us get right into questions from committee members.

Mr. McFadden: Thank you. I will just introduce those who are here at the table in front of the committee. A couple of the people from the Ontario Institute of the Purchasing Management Association of Canada are in the audience.

To my far right and the committee's far left is Ron McDonald, who is the chairman of the professional registration committee for the institute and a past president of the national organization. Sitting next to Mr. McDonald is Sheila Finn, who is the immediate past president of the national organization. She is also past national professional development committee chairman.

Sitting right next to me is Julian Doyle, who is counsel to the association. In the audience right behind us is Frank Clement, who is the past national director of the organization and a member of the professional registration committee. Finally, sitting beside Mr. Clement is Neil McLeod, executive vice-president of the association. He is a permanent staff member of the association.

All the people here have great familiarity with the operation of the institute as planned, as well as with the operations of the association, both in Ontario and nationwide, and are here to answer any questions the committee may choose to put.

Mr. Chairman: Thank you. We will go in the usual fashion, Ms. Bryden first. Mr. Hennessy, are you still asking the questions?

Mr. Hennessy: No, Gordon Dean.

Mr. Chairman: Mr. Dean is asking questions. Mr. McFadden, I should indicate that there are three amendments, which I understand are acceptable to the applicants.

Mr. McFadden: Yes, as I understand it.

Mr. Chairman: Those will be moved by Mr. McKessock at the appropriate time.

Ms. Bryden: Again it is a self-governing body that is being established by this bill. I am sure they are aware that all self-governing bodies are subject to surveillance as to whether they carry out their mandate in the interests of the public and not just of the small group. With that proviso, I would support the bill, as long as it does not exclude other people who do not have that designation from operating in the field as well. Is that correct?

Mr. McDonald: That is correct.

Mr. Dean: It is a good move for any professional body to establish standards and be self-regulating. I understand that is how it happened with you, and I do not believe we have any questions. It is a good thing to clear up loose ends.

Mr. Chairman: Any questions from the Liberal members? Since I do not see any, Mr. McKessock, we are going to move towards the vote. I have lost my crib sheet; just hang on.

Sections 1 and 2 agreed to.

On section 3:

Mr. Chairman: Mr. McKessock moves that section 3 of the bill be struck out and the following substituted therefor:

"3. The objects of the institute are,

"(a) to encourage research and development in the procurement and materials management field;

"(b) to establish and encourage the application of high standards of ethical conduct among its members;

"(c) to promote and improve procurement and material management practices."

Motion agreed to.

Section 3, as amended, agreed to.

Sections 4 to 7, inclusive, agreed to.

On section 8:

Mr. Chairman: Shall subsections 8(1) and 8(2) carry? Carried.

Mr. McKessock moves that subsection 8(3) of the bill be amended by inserting after "performed" in the third line "as a certified professional purchaser."

Motion agreed to.

Section 8, as amended, agreed to.

Sections 9 and 10 agreed to.

On section 11:

Mr. Chairman: Mr. McKessock moves that section 11 of the bill be struck out and the following substituted therefor:

"11. All surplus, profits and other accretions derived from carrying on the affairs and business of the institute shall be devoted and applied solely in promoting and carrying out its objects and purposes without gain to its members and shall not be divided among its members."

Section 11, as amended, agreed to.

Sections 12 to 14, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

Mr. Chairman: Thank you very much for your attendance and the co-operation of all the members of the committee. Have a safe trip back to Halifax, whoever is here from Halifax.

Mr. McFadden: That is Mr. McDonald.

Mr. Chairman: Have a good trip back. Give our regards to the people in Halifax.

1530

We will try one more. We are on a roll. This will just give the chairman a chance to catch up, with the speed with which we have worked our way through these bills.

Mr. Hennessy: What is holding it up?

Mr. Chairman: I was just clearing up the paperwork here.

We are waiting for Mr. Ward. He is in the standing committee on the Legislative Assembly. He is with the group with Bill Pr9.

Is the group here for Bill Pr9, An Act respecting Hamilton Jewish Communal Projects? Could you come forward? We are waiting for Mr. Ward. He is tied up at the moment in another committee, but he is on his way, I am told.

Mr. Ward, we moved ahead a little more quickly than we thought we would. Perhaps you would be good enough to have a seat and identify yourself and the applicant. We have all had an opportunity to review the bill. It is fairly well self-explanatory. So after that, I think we would move into questions by committee members, if there are any.

HAMILTON JEWISH COMMUNAL PROJECTS ACT

Consideration of Bill Pr9, An Act respecting Hamilton Jewish Communal Projects.

Mr. Ward: With me is Ron Barrs. Also in attendance are Sid Brail and Emilia Tung.

The bill is enabling legislation to permit the city of Hamilton to exempt the Hamilton Jewish Community Centre from property taxes. This centre operates in very real terms as a community centre within the city. It is run as a charitable, nonprofit organization. It very much provides community services. The legislation is supported by both the city and the region. I believe it is fairly straightforward.

Mr. Chairman: Mr. Offer, are there any comments by the government with reference to this bill?

Mr. Offer: Yes. The applicant is a similar organization to the Young Men's Christian Association and the Young Women's Christian Association in its service to the community. Both of these organizations have a qualified tax exemption in Hamilton. The proposal for the Hamilton Jewish Communal Projects is the same as the YMCA exemption.

We have received two comments on the bill, one from the Ministry of Revenue and one from the Ministry of Education, which indicate their concerns with respect to any exemptions from taxes for this type of purpose.

However, I would also like to indicate that it meets the four criteria established in this committee and in past committees: (1) it is charitable; (2) it is only enabling legislation that is required; (3) it has been endorsed by municipal resolution; and (4) the land is zoned or used exclusively by the applicant. Accordingly, subject to one slight amendment that will be moved, we have no objection, as this particular application meets all the criteria.

Mr. Chairman: I understand you have seen the amendment and you are in agreement with it, an amendment to section 1 of the act.

Ms. Bryden: Certainly the objects of the organization sound very laudable, and I would like to see it get this exemption. Again it raises the question that we would prefer to see provincial legislation in this field

that would provide guidelines for tax exemptions rather than have groups like yourselves come before this committee and go to all the expense of private legislation, but I will support the bill.

Mr. Chairman: Who is going to ask the questions on behalf of the Conservative Party?

Mr. Dean: I would like to, if I may, since it is in my backyard, so to speak.

Mr. Chairman: All right.

Mr. Dean: The only question I have, knowing that the organization purports to be and is a valuable part of the Hamilton community, is to verify what Mr. Ward said as to the agreement of the regional municipality. The little background notes we had said that at that time the region had not agreed to it. I just want to make sure that is right.

Mr. Chairman: I am advised by Mr. Offer that the region has agreed.

Any questions from the Liberal Party?

Mr. McKessock: No questions.

Mr. Shymko: Would you like me to move the amendment?

Interjection: Should we proceed with the amendment to section 1?

Mr. Chairman: I am sorry, Mr. Shymko. We had agreed with unanimous consent that it would be one member from each party.

On section 1:

Mr. Chairman: Mr. McKessock moves that section 1 of the bill be amended by striking out "or such other lands as may be acquired in the city of Hamilton" in the sixth and seventh lines.

Motion agreed to.

Mr. Chairman: Shall section 1, as amended, carry?

Section 1, as amended, agreed to.

Sections 2 to 5, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill Pr9, as amended, agreed to.

Bill Pr9 ordered to be reported.

Mr. Shymko: On a point of order, Mr. Chairman: Just as in the Windsor band bill, I would like to suggest or move that any moneys--

Mr. Chairman: The usual motion.

Mr. Shymko: --the usual motion, yes--should be refunded to the specific applicants.

Mr. Chairman: Mr. Shymko, there is a motion you can read to get it on the record.

Mr. Shymko moves that the committee recommend that the fees, less the actual cost of printing, be remitted on Bill Pr9, An Act respecting Hamilton Jewish Communal Projects.

Motion agreed to.

Mr. Chairman: Thank you very much. Thank you for reminding me, Mr. Shymko.

We will return to the Toronto bill, it being the last one on our agenda. We will perhaps be a little more leisurely in dealing with it.

1540

CITY OF TORONTO ACT
(continued)

Resuming the adjourned consideration of Bill Pr57, An Act respecting the City of Toronto.

Mr. Domagala: My name is Gene Domagala. I am a private citizen.

Mr. Chairman: We are always happy to have private citizens here.

Mr. Domagala: I am also a member of the Toronto Historical Board. That is where I wear my other hat.

I come today with a mission to ask your support on this most important aim. I said before that I am a private citizen, although I am a member of the Toronto Historical Board and other community organizations. I am not the greatest orator and I have, on occasion, been known to ramble and be repetitive, so please bear with me.

I have some thoughts, which I put down on paper coming here on the subway, and I have changed them a couple of times. On the matter of history and historic preservation, I do not think anyone can doubt my sincerity. I am overwhelmed with the couple of previous deputations we had this morning and their credentials. They are a very hard act to follow. You have had excellent deputations from our city council, including Mayor Eggleton, Councillor Kanter and Michael Walker. You observed the most informative video presented by the Toronto Historical Board and the interpretation of the professional staff on the board, including managing director Scott James; Bill Greer, the articulate architect; and the informative planner, Marcia Cuthbert. You also heard some most revealing points from urban planners and a delegation from Architectural Conservancy of Ontario.

I am here, though, as a self-appointed individual representing the small communities and areas that used to make up the city of Toronto. I am a Canadian, an Ontarian and, third, a Torontonians. I am proud of our history. My first wish is to preserve the history--in this case, the historic

buildings--of our country, province and city: Toronto, the queen city of the lakes.

We have in Ontario many communities that are steeped in rich historical traditions, towns such as Almonte, with its unique stone buildings and picturesque dams and cascading waterfalls; Owen Sound, with its harbour and rolling hills; Kenora; Guelph; Cobourg. These are small communities that would also like to preserve their historical buildings, which brings us to Toronto.

We have fine old buildings downtown, such as old city hall, the St. Lawrence Market, Casa Loma, Spadina House, the flatiron building and this venerable old parliament building which we are sitting in. They are well worth preserving, too, and well they should be. But I am also speaking about the little communities that used to make up this great city of ours, and the buildings were and are still part of these small communities to the local people who inhabit these areas.

These buildings have their own architectural and historic reasons for why they should be kept. In many cases, they have been kept; in other cases, they have fallen to a bulldozer and made a glass and concrete cage. I am talking about little communities like east Toronto and the Beaches, where firehalls have been preserved, a life-saving station and synagogues have been restored and a new lease on life given to them.

On the other hand, I have seen fine old buildings being razed and, with these buildings, a piece of me: places long gone but still remembered, like Leslieville, where we have right now a fine old building that used to be a hotel and reminds people of a bygone era. It is now threatened.

There are buildings in a central area near Bathurst and Queen Street that I would like to preserve. These were the first buildings of the Ukrainian and Polish communities. They met and worshipped in these areas.

I would like some of the unique buildings on Queen and Dundas that used to house undertaking establishments, breweries, blacksmiths and other establishments of a bygone era, as well as buildings called Masonic and Young Men's Christian Association halls in Parkdale that are all but forgotten, except by the people of this community, to be preserved. These are rarely seen in the public eye. In the communities of Parkdale, High Park, Swansea, the Annex, Cabbagetown, West Toronto Junction--which a couple of years ago lost a railway station, one of its main old buildings--and places like Brockton and its town hall, once these places are gone, that is it.

Mr. Shymko mentioned the Colonial Tavern. A couple of us on the board are not people who say, "Yes, we want to destroy it." Some of us voted to keep it, but we are a democratic type of people. We have 17 members on the board, and several of us wanted to keep it, along with other places.

Mr. McKessock said something about without the mayor, nobody would say anything against it. I never follow what only one person or the mayor says; I follow what is my gut feeling for the history of Toronto. I was born here. The mayor was born here, too. I am saying that I am here independently. I have been here for the last three days. It has nothing to do with the mayor, any of the politicians or anybody. I am speaking here strictly on my own.

What I am trying to get across to this committee is that we do not have 1,000 years of history or more, like other countries or cities, like Kiev, Moscow, Rome or Peking. What we have here is gone. What would happen if the

pyramids of Egypt were destroyed, or the Coliseum in Rome? Our buildings are only 100 or 150 years old. Once they are gone, that is it.

One building comes to mind. It is located in what used to be little Italy, on Bellwoods Avenue. It used to be the Newcombe piano factory. Later, it became one of the first boys' clubs. It was started by the Knights of Columbus. It is still standing, but it is being threatened again. These are just part of community organizations.

I am speaking to this committee not with a jargon of technical terms. What I am saying to you people is right from my historical heart. We are talking of replacing these buildings with what? There is a hiatus where the poor developer must wait for a return on his investment. I am not against developers or development. There are great ones and great examples of co-operation with the developers. I will be glad, and I guess anybody in the city or in historic preservation will be glad, to talk to these people. Like one of the persons said before, "We cannot save all the buildings, but we can damn well try." I am speaking to you people, the members of this committee, to try to pass this bill to preserve the history of our community, to preserve the history of our downtown area, to preserve the history of the buildings of Toronto. If we do not speak on these matters and try to preserve them for our future children and generations, who will?

Ms. Bryden: It is a delight for me to welcome Gene Domagala as a deputant to this group because he lives in my riding and I have joined him in some of the walks he takes the residents on to point out to us the great importance of preserving the landmarks of our past in the Beaches area. While he says he is no orator, he is very eloquent on conveying the value of heritage protection and telling residents about the history of the area, and I think his work has spread the desire for heritage preservation. I am sure most of the people he has talked to would support this bill in order to see that the demolition of heritage landmarks does not go on through loopholes that appear to be in the Planning Act.

1550

I am very glad you came down. I would like to ask you, are you aware of any particular buildings in the east end that have been lost because this demolition law is not strong enough?

Mr. Domagala: Ms. Bryden, I can give you a list of buildings that have been lost. I can give you 50 buildings that should have been listed that maybe-- But it is immaterial. The point is right now. Once these buildings are gone, they are gone. There have been many that have gone, not only in our area but also throughout the entire city. There are lovely churches gone. We could possibly have preserved them if we had had a strong enough heritage act and designated these buildings, but as I said, it is practically immaterial.

In our area I can think of hotels that are gone, 150-year-old buildings. We do not have many 150-year-old buildings left. As the urban planner said, some houses and some buildings that are very unusual are maybe only 40 years old.

I just recently came to this way of thinking. I am not that much enthused over all the Joy stations, for example, but if the community wants to have them preserved and we can preserve them, then I will back them up. If the community wants that, individual little communities, then I will try my darndest. I do not go just in the east end; I have gone the entire spectrum of

our city, from west Toronto right down to Jesse Ketchum Hall and to our area, trying to preserve these buildings.

Ms. Bryden: I think the city of Toronto, by this bill, is indicating that it wants to preserve them but does not have sufficient power. This is what we are trying to do.

Mr. Domagala: That is for sure.

Ms. Bryden: At least, that is what they are trying to do by this private bill.

Mr. Chairman: Since it is in your backyard, Mr. Shymko, I will go to you.

Mr. Shymko: I want to congratulate you, Mr. Domagala, for appearing before this committee. Normally our citizens feel they should sit back and have official institutions--city councils, representatives and others--up here before the committee, but to have the average citizen appear, as you point out, is something you are to be complimented on.

My concern in this area is with regard to some of the comments I have heard from some witnesses who say that this bill, if passed, or had it existed two, three, five years ago, would not have prevented the demolition of some of these designated heritage buildings.

I just wondered whether you share that concern. For example, there was the Joy station where the community was terribly upset by a developer moving in and demolishing it. The example cited of that particular case is that even if this bill had been passed, you would not have stopped the developer from demolishing it because he had plans of the structure that was to be built on it. He had excellent projects that would have probably guaranteed a building permit and, subsequently, the demolition of the site. It is of concern to me that this bill would not protect heritage buildings.

Mr. Domagala: Mr. Shymko, you have to understand, this gentleman here--I forget his name--said they can get through loopholes no matter what you do. Even if we pass this one, they certainly will have loopholes, but we do have one thing in our favour. If we have this demolition stopped, possibly this act may not prevent them, but you can get dialogue and you can put people pressure on these.

The greatest thing I found out is that once you have the backing of the people, talking to these developers--maybe the act might not stop them, but some people, maybe friends of these people; that has been done before. I came to one developer. I got through to a friend of mine who got through to a friend of his and he talked to this person. The heritage designation may not save everything, as we say, but at least it is a step in the right direction. We have had absolutely nothing.

People have called me. I went up to High Park. I went to the Joy station and a man chased me away. I put one of my signs up there. He said: "What are you doing? Are you looney or something?" I said, "Yes, I am trying to preserve something."

This is something the people have lost track of somewhere. The developers, even some of the politicians, have lost track of the heritage of our cities, the heritage of our buildings. If we had had this a few years ago,

maybe it would not have stopped all of them, but it would have stopped a great many. This is what we are getting at. This is why.

Mr. Shymko: You mentioned the word "dialogue," and this is my concern. Would you believe that unless we have dialogue and that type of co-operation going on, if the opposite happens and you create polarization and confrontation between builders and city councils, you will not resolve the issue but will complicate our concerns even more?

Mr. Domagala: Exactly.

Mr. Shymko: As you point out, dialogue is what we want. That is the resolution.

Mr. Domagala: I have had some excellent examples from our board. Bill Greer is another one. Even as we are talking right now, a couple of them are having a dialogue on saving one building.

Mr. Shymko: Do you think this bill will perpetuate the good atmosphere for a dialogue, or do you think this bill will result in polarization and confrontation and do the opposite?

Mr. Domagala: If you want my personal opinion, I would instigate a bill that would preserve all the damn buildings, or more than this, but this is a step in the right direction. We are using Toronto as a model, actually. When I see these other little towns around us, they are way ahead of us. But once we get this implemented here in Toronto, maybe it will be used as a model for these other communities.

Mr. Shymko: My last question is that you seem to be a people person, someone who supports the grass-roots community, sort of lobbying to preserve heritage buildings. How did you vote on the Colonial Tavern, and why?

Mr. Domagala: I voted to preserve it.

Mr. Shymko: Why?

Mr. Domagala: As I said before, I evaluated everything. To be honest, the staff recommended that it be demolished or whatever. I remember it. The urban plan or something brought it to my mind. Some people were saying that part of the history of Toronto was the opening of jazz, the opening of bars. Maybe teetotalers would not like that, but that is part of our history.

I remember 40 years ago when the darn thing was opened. That was either the first or the second one. I said to myself: "This is a part of history. Maybe the two old buildings beside it are even more steeped in history architecturally, but this is a part of history. I would like to keep it." I was not influenced by anybody. It was my own judgement. A couple of others and I wished to retain that.

Some of the other board members said, "Go the other way." But I want to retain it, because it was one of the first taverns we ever had and was a part of our jazz and made some musical contribution.

Mr. Shymko: You feel the city council is really not concerned about heritage buildings. It should have pursued your approach and maintained it, rather than do the opposite.

Mr. Domagala: No, because my approach sometimes comes from the stomach, what I feel in my gut. If other more knowledgeable people, like the architects and what not on there, can explain it to you, they might take about an hour and explain why. But I maintain right to this day, no matter what I have heard or read, that I would still like to save the Colonial.

Mr. Lupusella: For the sake of dialogue, which you mentioned on the issue that is before us, when the council decides that development has to take place or when a particular decision has been made in relation to issues that are incorporated in Bill 57, do you have any particular objection that a notice should be sent out to the people affected by the decision, not only in the newspaper but also a notice by mail, distribution or whatever it is going to be?

Mr. Domagala: One of my main concerns has been exactly what you are addressing. I think there should be more notification to the community at large. I would put them around the area and put them in the local community also. The way we have it now has to be changed, I agree. Again the point is, how much can you change? This dialogue has to be done with the local community; give it out to more people around. As it is, sometimes I pick up the Globe and Mail, I look at some of our designated buildings and I miss it.

You are saying it should be in, and let-- Even if you have to put it in three or four times. Again, there is a cost factor involved in that. That amounts to maybe \$4,000 or \$5,000 sometimes, but I think the cost is (inaudible), if the people know about it. That way they have the dialogue also between the officials and being put in the papers and between ourselves.

1600

Mr. Lupusella: So do you think this option should be part of this particular bill?

Mr. Domagala: Yes.

Mr. Chairman: Thank you very much. We appreciate your coming forward to give us your views.

The next deputants are Patricia Foran, deputy city solicitor, Mr. Kanter and Mr. Bradley. Perhaps you would identify yourselves again for the purposes of Hansard.

CITY OF TORONTO

Ms. Foran: I am Patricia Foran. I am deputy city solicitor for the city of Toronto. On my right is Stephen Bradley, who drafted the legislation and is a solicitor with the department. On my far left is Scott James, the managing director of the Toronto Historical Board, and on my immediate left is Councillor Ron Kanter for the city of Toronto. Councillor Kanter will speak first.

Councillor Kanter: It is nice to be back here this afternoon and it is nice to know that our bill is getting a fair amount of attention. I would waive my right to speak, and I am sure other members of the deputation might as well, if you dealt with it as quickly and favourably as the one we heard just before us, the Hamilton bill. But perhaps we should comment, just in case you want to hear a little more.

Mr. Chairman: It is always wise.

Councillor Kanter: Okay. I am a Metro councillor for the midtown area in Toronto, the Bloor-Yorkville area among others. We have a number of historic buildings in our area, and that is one of the reasons for my particular interest in Bill Pr57.

I think it is quite clear that most people would agree that our existing provisions to save historic buildings are inadequate. The province made a good start with the Ontario Heritage Act some years ago, but there is much greater interest now and much greater awareness of the benefits of saving old buildings: economic; from a tourist point of view; from a cultural point of view. I was very heartened to find that even one of the opponents of this bill, Mr. Lewinberg, on behalf of the Canadian Institute of Public Real Estate Companies, admitted that present mechanisms do contain certain inadequacies or shortcomings in terms of the objective of ensuring the preservation of heritage buildings. He referred to procedural, financial and political shortcomings.

The comment was made this morning that we should turn heritage buildings into gold mines. I think gold is often hard to find, and I think what this bill would do is make prospecting a little easier in terms of finding the benefits and advantages and values in these historic buildings.

All this bill is intended to do is make negotiations to save historic buildings meaningful, to give both parties a stake in these negotiations, because the fact is that right now a developer can ignore the advantages and the prospect of saving historic buildings. All he has to do is apply for a demolition permit, be refused by the city of Toronto and wait out the clock, wait for 270 days. He does not have to talk to the historical board. He does not have to talk to city planning officials. He does not have to have any replacement in mind. All he has to do is walk away.

I will not say frequently, but on occasion, that is exactly what developers do. There is one situation in my area of Toronto--it happens to be called the University Theatre--where that is exactly what the developer has chosen to do. The property is owned by a large American corporation. They are not members of CIPREC, they are not members of the Urban Development Institute and they have not engaged in any meaningful negotiations with the historical board or anyone else at the city of Toronto. They have made it quite clear that, in their view, what they want to do is to clear the site and sell it, to try to maximize the financial advantage from it. They do not want to talk about density improvements or other financial incentives. They are not interested in the historical preservation of these buildings or other buildings in the city of Toronto.

That may be the exception, but that does occur. Under the current regime, there are some developers who ignore historic preservation, who apply for a demolition permit, wait out the clock and walk away. That is what this bill is designed to correct and overcome.

All this bill does is to give the city more negotiating power. It requires applicants to come and talk to us before they get a building permit, before they can tear down a historic building. It is quite true, as Mr. Shymko has pointed out, that this bill is not a guarantee that we will preserve every historic building in the city of Toronto, but it is a heck of a lot better than what we have now.

That is essentially the point I want to make, that heritage buildings are valuable resources. They can often be used to economic advantage, and Bill Pr57 will increase the likelihood that that will occur. We have had some discussion about the climate and whether the climate would be better, more favourable, as I believe it would be, or less favourable, as some would have claimed.

I think what is important is that we do have clear rules, rules that apply to everybody, rules that allow rights of appeal. I note that there is a right of appeal here from the designation of a building as historic, from the withholding of a demolition permit, from the failure to build. There are many safeguards to protect the rights of land owners, as there should be. It is my understanding that the city has amended its legislation to take some of the concerns of UDI into account.

The one point I have heard that is worth some comment is whether the city of Toronto should go it alone, whether it should sort of blaze on ahead while the province is conducting its own review. I think the reality is that Toronto has the largest collection of historic buildings in the province. Toronto has the most development pressure.

We have heard discussion this morning of a number of buildings that have already been destroyed and the sites left vacant, a number of buildings that are currently under threat of demolition, some of them in my area of the city. I would suggest there is another group that should be added, that have to be added to that list, probably longer than that list, if this bill is not passed, and those are the buildings that would be under threat while we are waiting for provincial legislation, provincial legislation that will take some time because there will have to be broad consultation; there will have to be a bill that meets the needs of smaller communities that do not have a professional staff of a historical board.

I think there is some reason for proceeding sooner--immediately--in the city of Toronto because of the large number of old buildings, because of the development pressure, and I think Toronto's legislation could serve as a model in some ways for the rest of the province. It may have to be modified. It may have to be amended. It may also serve as a model for the rest of the province.

I think there is general consensus on the goals and objectives. I think the legislation is beneficial to the city, to the public interest. I think it is fair to the private interests of private developers we are going to be calling on actually to preserve most of these buildings, and I think it is important that we proceed now in the city of Toronto as well as proceeding on a province-wide basis, which may take a little more time.

Mr. Chairman: For the benefit of the committee, could you maybe take us through--perhaps Ms. Foran can do it--first of all, the requirements to apply for a building permit? What is needed to get the building permit, zoning and official plan in place and so on? Could you take us through that? I am gathering from some of the committee members there are questions in terms of the timing.

Ms. Foran: I do not think there is any clear way you can say it will take three months or six months to get a building permit. It all depends, first of all, on what you propose to build, how soon you get your plans together, whether the plans are in compliance with the building code and whether the plans are in compliance with the official plan or the zoning bylaw at the time. If you are going to need a zoning bylaw amendment, then of course

it will involve a great deal of discussion in the city as to how that will be implemented.

I really cannot say that it will take two months, three months or six months. It depends on the application and then the type of building that is to be built, whether it complies with the existing zoning or whether it just needs to go to the committee of adjustment for minor variances or whether it has to go to the Ontario Municipal Board. It also depends on whether there would be an amendment to the official plan involved or whether it does comply with the official plan but there are zoning requirements. So it is very, very difficult to give a clear-- It would be misleading for me to put any time limit on that. It just depends on the situation.

Mr. Chairman: Just for clarification, and I hope for the committee's benefit, the properties that are listed that are not yet designated have to go through a hearing process, do they not?

Ms. Foran: Again, I want to emphasize that Bill Pr57 does not deal with the list of properties. It deals with only designated properties.

Before a property is put on a list, the owner is notified. A public hearing is held by the standing committee of the council. The owner has every opportunity to come down and to argue in favour or against. Then the matter goes on to the council. Indeed, there are some times when an owner does not want to be on the list, and that owner is not put on the list. So it depends, again. If the owner can convince the council that his or her building is not worthy to be on the list, the council is there to listen.

When you are talking about designated buildings--and that is all we are talking about here. It is totally confusing to be talking about the list; that is just irrelevant. We are talking only about designated buildings.

The Ontario Heritage Act sets out very clearly what we have to do. Council has to pass a notice of an intention to designate. It has to serve that notice. It has to publish that notice. It has to serve the Ontario Heritage Foundation. The owner is given the opportunity to come down to make representations for or against. Then, when the building is officially designated and the bylaw is passed, the owner is served with a copy of the bylaw and the Ontario Heritage Foundation is served with a copy of the bylaw--

Mr. Chairman: Copy registered on title?

Ms. Foran: That is right. Notice is published three times in the paper. Certainly when you talk about a designated building, I do not think anybody is saying that the owner is not notified. In any event, we are not trying to change anything in that respect that is now under the Ontario Heritage Act. We are trying to live with the Ontario Heritage Act and just go one step further.

So if there is any complaint at this time as to the owner not being notified under the Ontario Heritage Act of designations, that property is not the subject matter here today. That property will have to be dealt with when the Ontario Heritage Act is amended. At this point, we are saying that after a building is designated, then Bill Pr57 comes into effect and affects that building. But we are not talking about before the building is designated.

Mr. Chairman: This act is really limited to designated buildings, nothing more.

Ms. Foran: That is right. It applies only to designated buildings. I want to make that very clear because I was somewhat alarmed by listening today to all the talk about the list. This act does not apply to the list of buildings. That is just a list of buildings that the Toronto Historical Board is looking at as being worthy of preservation.

Mr. Chairman: There is a little broader area than that. There is the terminology of--what do they call it? Something or other area.

Ms. Foran: A conservation district.

Mr. Chairman: All right. Since that is a much larger area, what is the process through which places in whatever it is called--

Mr. Shymko: Mr. Chairman, on a point of order: Who limits your questions?

Mr. Chairman: I am just trying to clarify things. If you do not want them, Mr. Shymko, by all means say so, and I will let you ask questions. You go ahead. Ms. Bryden, you ask the questions. I was trying to clarify things for Mr. Shymko, but if you do not want them clarified, that is fine.

Mr. Dean: I would like to have the answer to the question you were in the midst of formulating.

Ms. Foran: About the heritage conservation district?

Mr. Dean: Yes. How does that fit into all this?

Ms. Foran: Again, you have the solicitor for the ministry here, who probably knows the act much better than I do. We have only one heritage conservation district in this city that applies to buildings other than city-owned buildings. The area around Fort York is designated as a heritage conservation district. All of the buildings there are owned by the city, so that is somewhat different.

Mr. Dean: That is not a problem.

Ms. Foran: Then we have another area that has been designated as a heritage conservation district. There are several provisions of the act. I do not know if you want me to read out all the provisions. Again, there is a great deal of consultation. The council may define an area where future designation as a heritage conservation district might apply. Then there must be an official plan provision, as I understand it. Then where the official plan allows heritage conservation districts, the council may, by bylaw, designate any area as a heritage conservation district. The bylaw that is passed to designate a heritage conservation district does not come into force without the approval of the Ontario Municipal Board. Once council passes the bylaw, it still has no effect until the matter goes to the OMB and is approved. The council of a municipality is required by the act to give notice of its application to the Ontario Municipal Board to approve the bylaw, and it is up to the OMB to determine who is notified. The council must also notify the Ontario Heritage Foundation.

The Ontario Heritage Act is very specific. I will read subsection 41(6): "The board shall, before approving a bylaw under subsection (1)"--which is the designating bylaw--"hold a hearing open to the public for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the board."

So there is a hearing at the board before an area is designated.

"(8) Unless the council of the municipality applies to the board for approval of a bylaw under subsection (1)"--that is the designating bylaw--"within 14 days from the date that it is passed by the council, such bylaw shall be deemed to be repealed on the expiry of the 14 days."

So council passes the bylaw. First, it has to give notice. It has to have provisions in the official plan relating to heritage conservation districts and those have to have been approved already by the Minister of Municipal Affairs (Mr. Grandmaître). When it passes the bylaw, it must go to the Ontario Municipal Board and ask for a hearing. The board must hold a hearing; it has no choice. Then the municipality is required to give notice as the board directs. If the municipality does not go forward to the Ontario Municipal Board within 14 days after passing the bylaw, the bylaw is deemed to have been repealed.

Mr. Dean: May I have a supplementary to what was basically the question, Mr. Chairman?

Mr. Chairman: Yes.

Mr. Dean: What actually occurs if a heritage conservation district is established? What does that mean in connection with this bylaw?

Ms. Foran: With the legislation?

Mr. Dean: With this legislation, yes.

Ms. Foran: Again, it has to be read in the context of what happens under the Ontario Heritage Act. Under the Ontario Heritage Act, where an area has been designated as a heritage conservation district, and I will read the act: "No person shall in the area defined in the bylaw erect, demolish or remove any building or structure or alter the external portions thereof, without a permit therefor issued by the council of the municipality unless..." Then there are certain provisions: the bylaw has been repealed; or the board has refused to approve the bylaw; or, in the case of demolition or removal, 180 days have elapsed.

So basically, if it is in the district, there can be no demolition, removal, erection of a building or alteration of external portions without a permit being issued by the council. That is the difference. Under this part of the act, you must get a permit from the council, whereas under the other part of the act, in relation to designated buildings, you must get the consent of council. So there is a difference in terminology.

Mr. Dean: What this proposed bill would do, then, is cover a lot of other areas that have not been-- It can be applied in any part of the city of Toronto, I presume, what the bill says, regardless of what is stated in the designated areas--

Ms. Foran: The designated buildings.

Mr. Dean: --the conservation districts?

Ms. Foran: It would apply to designated buildings. Apart from that, it would apply to any area that has been designated as a heritage conservation district. As I tried to point out to you, we do not just run around and

designate every area in the city a heritage conservation district. The one that was designated in the city took around seven years. There was that much consultation.

Mr. Lupusella: Mr. Dean, would you like to know the parameters of the designated area?

Mr. Dean: Maybe not all the detail of it.

Ms. Foran: I can tell you what the area is, but Mr. James probably can tell you the exact geographic area. It is not a very large area.

1620

Mr. James: I am not sure, but I might have something to say that would help Mr. Dean.

There are significant problems inherent in the Ontario Heritage Act with regard to administering heritage conservation districts. We have done one significant district, Wychwood Park, as a test case. In the case of Wychwood Park, it took seven years for the board and the city to negotiate that designated district with the owners. At present, the board has no plans to create any more.

Mr. Dean: You had enough.

Mr. James: I should say also that Wychwood Park consists solely of residential buildings that already have the benefit of protection under the Planning Act.

Ms. Bryden: I think the culmination of the mayor's statements this morning, plus the additional information you have brought us this afternoon, indicates that most of the objections to the bill that I have heard have been answered in one way or another.

The submission by the gentleman from the Blake, Cassels firm did have a legal analysis of Bill Pr57 which pointed out about 18 alleged flaws in it. Have you examined each of those flaws? I am not asking you to go through them point by point and rebut each of them. With the amendments the city is asking to be introduced by a member of the committee and with the two that have been tabled today, do you think any flaws in the act that have been pointed out have been adequately met so that the act will be effective in the way the city hopes?

Ms. Foran: I am not prepared to agree that there are any flaws in the act. There are none. We made two amendments, one which perhaps would clarify it a bit and another which was changing 90 days to 60 days. There is another change I would be prepared to concede following Mr. Winberg's suggestion this morning.

I am really rather appalled. People have come forward and attacked the bill on the basis of the policy behind the bill and have said that therefore the bill is flawed. A bill is not flawed just because you do not agree with the policy. The policy of the city council is one thing. If you do not agree with that, you may attack the policy, but you do not attack and say the bill is flawed. That is certainly one of the things that caused me concern today.

The other thing that caused a great deal of concern is the total confusion between what is in the Ontario Heritage Act and what is in Bill Pr57. There were times when I was listening to it that I just did not understand what people were saying, because they were simply attacking the wrong bill. If you want to attack the Ontario Heritage Act, fine, but this is not the forum for it. The forum for attacking the Ontario Heritage Act is at the time the amendments come forward. There has been some confusion created by the brief.

I am quite prepared to go through every point and deal with it in this legal analysis of the bill. It would take a little while, but maybe I should start at it and see whether you get tired of listening to me. I am prepared to deal with every point.

The Vice-Chairman: Does that satisfy your question?

Ms. Bryden: I do not think that is necessary, certainly from my point of view. I agree with your point that there has been confusion between the Ontario Heritage Act and this bill. I think the fact that the Toronto Historical Board representative here supports this bill indicates that he believes it would be an improvement to the present Ontario Heritage Act, which may need further amendments. Is that not correct?

Mr. James: Yes, it is.

Ms. Bryden: Therefore, I do not think we have to rebut all the attacks that were based on the deficiencies of the Ontario Heritage Act. That was my main point.

I think you have answered most of the objections, and the mayor has also rebutted the argument that there is no appeal. There is an appeal to the Ontario Municipal Board at a stage in the process of getting the approval for what actually happens on that property.

The bottom line really is that if you do not have this bill, there will be no heritage to protect in any negotiations, and therefore negotiations will be absolutely useless. Is that not correct?

Ms. Foran: That is right, once a building is taken down, once a building is gone.

Mr. Dean: That is a very extreme statement. Really, that is not a fact, because some heritage has been protected without the bill. How can you say there is nothing left to protect?

Ms. Bryden: The figures that were brought to us, that they had lost at least 12 buildings and there were at least 12 more under threat, indicate that there is a serious problem that must be dealt with.

Mr. Dean: There is an explanation for some of those 12, but you are a selective listener.

The Vice-Chairman: I have a strong feeling that the member for Fort William may want to add a question.

Mr. Hennessy: I would like to know who writes your jokes.

The Vice-Chairman: I thought you had something to say.

Mr. Hennessy: You are saying it, not me.

The Vice-Chairman: Oh.

Mr. Shymko: You sit there for a while--

The Vice-Chairman: Flattery will get you nowhere.

Mr. Shymko: I was very impressed by the sincere comments that our Metro councillor Ron Kanter made. I think you were very fair in saying that this bill certainly will not resolve all the problems. There will still be cases where heritage buildings that should be protected will, unfortunately, not be protected. No law is perfect. This is an attempt to strengthen the present legislation. I think we had a consensus and a mutual statement along the same line from those who criticized the bill, that they want to strengthen the present legislation.

The concern that was expressed in terms of asking for a deferral of the bill is provincially because of the present review of the Ontario Heritage Act. There was also reference to the planning department at the municipal level, which is doing a review. Could you comment? Is this an ongoing process? Is there a timetable? Will there be some kind of report from the planning department? And has the planning department indeed not commented on Bill Pr57 before council and provided its analysis or commentary as to the impact of this private legislation?

Councillor Kanter: Mr. Shymko, I will try to comment as a member of council and then I will ask Mr. James to comment as the managing director of the Toronto Historical Board. The planning department has a great number of things under review almost all the time. For example, we conduct, I believe, five-year reviews of our official plan, and historical preservation is one of many, many items that are being reviewed.

In fact, we have looked at the transportation capacity of our plan; we are looking at employment downtown and that kind of thing. I guess I would say, from the perspective of a member of council, it seems that the entire plan is under review all the time, but most of our time as members of council is spent looking at specific amendments that specific applicants make--people who ask for amendments to the zoning bylaw, an official plan and that kind of thing--so that often the more general review of the plan is kind of deferred. We are promised we are going to have a review in six months or a year, but in fact applications come in and we have to deal with those specific applications. The general review is deferred.

It is my understanding that this particular legislation was developed by the Toronto Historical Board certainly with the full knowledge of our planning department, but I would like to ask Mr. James to comment further on the role of the historical board in developing the application and any consultations they may have had with the planning department.

Mr. James: Yes, Mr. Shymko, I am happy to. I would like the opportunity to make it absolutely clear that under the Ontario Heritage Act, and according to city of Toronto council policy, responsibility for the heritage policy of the city of Toronto lies with the Toronto Historical Board and not with the planning and development department in any way, shape or form.

In 1984 the board, at the request of council, began a major review of all the city's heritage policies. That is still under way in consultation with

the planning department. A senior member of the planning department is in fact on our working group with responsibility to feed in any concerns that the planning development department has. Several components of the study do involve the city's responsibilities under the official plan. In fact, those parts of the study are being conducted by planning staff in consultation with the historical board, and those policies relate to the density bonuses and density transfer policies, particularly under the official plan. But the overall responsibility for developing heritage policy for the city of Toronto lies with the historical board. In the development of this legislation, the board has worked, of course, most closely with the city legal department and in consultation with planning over the last couple of years.

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More than that, I would like to reiterate the fact that it is not just this piece of legislation that is before you now that comes in the last year or so. We have been developing this, planning this and working with legal and planning over the past 11 years to try to make a more effective way of operating the city's heritage policy. Does that answer the question?

Mr. Shymko: In other words, when one speaks of a city of Toronto council policy on heritage buildings, in fact, there is no city of Toronto policy on heritage buildings and the preservation of these buildings. It is the Toronto Historical Board's policy, which is the policy of the council. Is this what I hear?

Mr. James: The Toronto Historical Board is a statutory agency of the city of Toronto. We advise on what we think the city council's policy ought to be.

Mr. Shymko: Okay, you advise the council. But still, the council has the power to amend some of your advice, to change it--

Mr. James: Absolutely.

Mr. Shymko: --and there is such a thing as a city council policy on the preservation of heritage buildings.

Mr. James: Yes.

Mr. Shymko: We have been told that, in fact, there is a very grey area where there are no clear-cut policies as such with the city council. Is there a policy? Can one get a handbook or something saying, "Policy of city council on preservation of heritage buildings"?

Councillor Kanter: Perhaps I could respond to that. I see Bill Pr57 as an integral part of the political policy. It was initiated by members of council some time ago and, in various forms, more recently it was sent to the historical board for development. As you have heard, it was developed in consultation with the legal department and the planning department, and then it came back to city council for approval and to be sent on to this Legislature.

It is extremely important to note that I am here not only as an individual but really as a representative of that council. This particular bill is very much part of our heritage preservation policy. There are other parts. Reference was made this morning to density bonuses, density transfers, grants and that kind of thing, but Bill Pr57 is part of the heritage

preservation policy of Toronto city council. It has been specifically approved by council and it is the wish of our city council that this bill be adopted by this Legislature.

Mr. Shymko: Has the city planning department ever appeared before city council and presented its assessment of your proposals, or do they simply work in conjunction with the Toronto Historical Board and you do not see a written opinion from the city planners?

Councillor Kanter: It depends on the emphasis or the thrust. In this case, I think we saw Bill Pr57 as relating primarily to heritage policy and therefore as being primarily the responsibility of the Toronto Historical Board, certainly to be done in consultation with the planning department. On other issues that might involve density bonuses or something like that, it might be the planning department that would take the lead, that would do the reporting, in consultation, of course, with the historical board.

I am a little concerned about the suggestion that this is somehow inconsistent with our planning policy. The city of Toronto has had a very substantial interest in heritage preservation for some time. Our official plan, which was passed in 1976 and approved by the municipal board some time thereafter, does have a major emphasis on historical preservation. We have gone some distance to emphasize historical preservation. This is another tool that will enable us to carry out that policy objective.

Mr. Shymko: So, in fact, it is misleading to compare the review by the Ministry of Citizenship and Culture of the Heritage Act and see a parallel review by the city's department of planning and development. The two are completely different in terms of the type of review and reporting and the process of reviewing.

Councillor Kanter: I would describe them as complementary in that the provincial review obviously has to look at historic buildings throughout the province in varying circumstances in rural, developing and developed areas. Our planning department obviously is limited to the city of Toronto, with the particular pressures that we are under. We have to act consistently with existing provincial legislation, and in this case we have found it somewhat lacking. We are asking for a change that would enable us to carry out the policy that I think both the city and the province generally support.

Mr. James: May I add to that, Mr. Shymko? I think, in the case of the studies that are ongoing by the planning department of density bonus and density transfer policies, that the results of those studies can have absolutely no bearing on the usefulness or not of this piece of legislation. With one possible exception, they could increase the incentives that the city could make available to owners and developers for preserving historic buildings, but otherwise--

Mr. Shymko: Oh, they could?

Mr. James: Yes. That would be the only and, I am sure, a welcome piece of information to our worthy colleagues here.

Mr. Chairman: Mr. Shymko, I have given you a good deal of latitude because you are a Toronto member. I would like to tell you that, although it appears as though we have a lot of time, we have a host of amendments that will have to be read into the record and voted on. In addition to that, I understand we may have a vote at about 5:45 p.m. in the House, which will take

us out of here at 5:45 p.m. I also wanted, if I could get unanimous consent of the committee, as a matter of fairness, to allow Mr. Bermingham to come before us again, in light of the fact that we did give Ms. Foran a second kick at the cat, as it were. As a matter of fairness, we should allow them an opportunity. Keeping that in mind, I think we should move on.

Mr. Shymko: I would like to say that 5:45 p.m. is about an hour and five minutes from now. I will be voting, as all of us will be, on this bill and I have some questions that I still have to ask and would like to ask before I make a responsible judgement as to how I will vote on this bill. I would appreciate, Mr. Chairman, if you would be flexible enough to allow me to continue in a reasonably controlled fashion, time-wise, to ask a few questions.

Mr. Chairman: I will give you until quarter to. How about until a quarter to, Mr. Shymko? You can continue, but at quarter to I am going to exercise the chairman's prerogative.

Mr. Shymko: Has there been agreement to put time limitations on--

Mr. Chairman: There was unanimous agreement that there would be a question from each member of the caucus--

Mr. Dean: No preamble, just the questions.

Mr. Shymko: No preamble. Okay.

In 1975, when the heritage act was introduced, the route you pursued was that of seeking amendments to the act. That has been the preferred approach by city council: to ask for an amendment to the provincial act rather than to go to the private bill approach. Do you still maintain this is the preferred way of settling and resolving these concerns and problems?

Ms. Foran: In so far as the city of Toronto is concerned, legislation is legislation. It does not really matter.

We asked for amendments to the Ontario Heritage Act because simply it is the policy of council that, if we are amending or asking for amendments to a general act, we ask that the act be amended. As I pointed out last week, we asked in 1976, and I have here the letter from the minister at that time saying, "Yes, it would be considered." We asked in 1978; I have a letter from the then minister with the same answer: "We will be interested. I assure you of my continuing interest." We asked again in 1980 and we gave up in 1980 and came for special legislation, but did not get it. It was a different form of legislation. We went back in 1984. I have a letter from the minister in 1984 saying the same thing: "We are looking at it."

Legislation is legislation. It does not really matter to the city of Toronto. It matters to the rest of the people in the province, perhaps, but not to us.

Mr. Shymko: There is, with all respect, a fundamental difference in the reality of 1976, 1978 and 1980, when the requests were made to amend the Ontario Heritage Act. At those periods of your requests, there had not been any major public review of the Ontario Heritage Act. Currently, we have a review which started two years ago. Public deputations will be completed by the end of July, some two months from now. That is a different condition.

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Would you not say in your wisdom, in the wisdom of the city council, that to proceed by requesting a change in the provincial law, now that there has been an ongoing review starting about two years ago and about to be completed probably within a year, it would make much more sense to defer this until that review is completed than to proceed with an interim bill that has already had 11 amendments? With all due respect to the deputy solicitor who has said it is not flawed, apparently the bill was flawed, because 11 amendments have been introduced following consultations with the ministries.

Ms. Foran: That is untrue. The amendments are coming forward simply because the minister came forward and said: "We do not like the way you have done it. You have done it by means of a lien." Both the Attorney General and the Minister of Municipal Affairs came forward and said, "You must negotiate some other way." These are the results.

There was nothing wrong with the first reading bill, or I am quite sure the legislative counsel would not have allowed it to be introduced in first reading. There was no flaw in the first reading bill. It was just that it was against what the government of the province wanted at that time. The Attorney General came forward and said, "Do it some other way," as did the Minister of Municipal Affairs in the letter of January 29. So we came forward with a compromise.

Mr. Shymko: Oh, I see. You did not consider that as a flaw.

Ms. Foran: It was not to correct flaws. The two amendments we agreed to today are, in our view, unnecessary. Certainly the one reducing from 90 days to 45 days is totally unnecessary, but it really does not matter to the city. The second one was just to clarify the penalty section because some people were having some confusion with it. I said: "Why do we not just break it down into three sections? Then the the court will be very sure to understand it." But there is no doubt in my mind that any court in the land would have understood what the penalty section said in the original.

Those amendments do not arise out of a flaw, and it is not really right to say that. They arose because we came forward and compromised. The council sent the staff up here to the province. We had several meetings with the staff, and the staff can tell you about it. We worked very hard, and it is a compromise.

Mr. Shymko: Unfortunately, a senior government, when it sees approaches that are not to its liking, would define them as being flaws, so my reference to flaws qualifies.

Ms. Foran: The point I was trying to make was that when you say "flawed", it looks as if there was an error in the drafting. I would think there was no error in the drafting or it would never have been introduced, because it is scrutinized very carefully by every department. We are here with a compromise, and those amendments show a compromise. They show that the city, in good faith, sent us forward to negotiate and to come back with a package that was acceptable to the ministry. It is not what we originally wanted, I agree, but we think it will work.

Mr. Shymko: Do you envisage the possibility and the probability that Bill Pr57, as currently worded, as you want it passed, may jeopardize some of the conclusions reached following the review by the ministry, by the province,

and that one would have to amend it again? Why not concentrate and produce the best type of bill following such a review?

Ms. Foran: Because by then we may have lost one, two, three, four, five--any number of buildings. We want to try to preserve buildings in the meantime.

Mr. Shymko: You may lose. We do not know whether you would.

Ms. Foran: We may. But if we had any idea it would jeopardize what the ministry is going to do with the act, then do you think the ministry staff would be here with a letter from the minister saying, "I do not oppose it"? The ministry staff came in last week with a letter from the minister, who said he did not oppose it; the Minister of Municipal Affairs is not opposing it. They do not take that position, so why should I take that position?

Mr. Shymko: This is my last question. This is an interim bill. You have all defined or described it as an interim bill until the final changes and amendments are made to the Ontario Heritage Act by the province. We have heard of interim measures and interim solutions proposed by the CIPREC and others. Can you comment on some of the interim solutions that have been suggested before this committee that could save some of these buildings in cases of perceived urgency? Can you comment on the full ownership to a short-term possessory interest for the purpose of forestalling the demolition as one of the proposals?

Mr. Chairman: You can comment on that and that will be the last question. I am sorry, Mr. Shymko--

Mr. Shymko: I have indicated this was my last question.

Mr. Chairman: Okay, all right.

Ms. Foran: It is expropriation, and if the city is going to expropriate every time someone says, "We do not like what you are doing and we are going to tear down this building," again, just because you say you can expropriate is no guarantee that you can have the title expropriated before the building is torn down.

That is not feasible in downtown Toronto. The city of Toronto cannot go around expropriating the buildings down there. There is just not enough money in the world to do that.

Mr. Shymko: What about some of the bylaws that you can enact?

Ms. Foran: Again, as you have heard, the--

Mr. Chairman: I think that is another question.

Mr. Shymko: No, that is the same question. (inaudible) some solutions. I mean, I can list these--

Mr. Chairman: That is the last one.

Mr. Shymko: --various interim solutions.

Mr. Chairman: That is part A, that is part B and that is it.

Mr. Dean: We will get him, Yuri, because there is also part C.

Mr. Shymko: Do you have a supplementary?

Mr. Chairman: There will not be any part C.

Ms. Foran: If you look in the brief (inaudible), and again, very clearly it says--

Mr. Shymko: No, I am quite sincere. I am not trying to be funny. We have heard some solutions, and I just wonder whether they make any sense or not.

Mr. Chairman: Mr. Shymko, could you turn around to the mike? We are not picking you up.

Mr. Shymko: Oh, that would be terrible.

Mr. Chairman: We want to preserve your questions for posterity.

Mr. Haggerty: Television is always--

Mr. Shymko: I would not sleep tonight if--

Ms. Foran: I think there are some kinds of bylaws that they were referring to. One was the official plan. Again, if you look in the brief they have filed, what the official plan provisions now existing in the city of Toronto are, you have heard Councillor Kanter say that there are ongoing reviews of those official plans, but I cannot say that in the future some official plan amendment may not--it may come forward, but again, all official plan amendments are subject to the approval either of the minister or of the Ontario Municipal Board. So just because council passes an amendment to the official plan does not mean it is going to come into force tomorrow. It may be two, three or four years down the road also.

In so far as the suggestion that you can pass a bylaw to prohibit parking lots, again, that totally misconstrues the purpose of Bill Pr57, and I think the mayor said it better than I can possibly say it. Bill Pr57 is not here to prevent parking lots. When you walk down the street and you see a space where a historic building was and it is gone and there is a parking lot there, it strikes you as being a rather poor use of the land. But we are not concerned in this bill with controlling the use of lots for parking lots or we would have the parking lot operators up here too as deputants.

What we are concerned with is trying to preserve buildings, to integrate those buildings or at least to try to integrate the old with the new in the buildings that are going up in Toronto today or tomorrow. That is the purpose of it. It is rather redundant at this time even to talk about passing bylaws to control parking lots.

Mr. Shymko: Colonial Tavern.

Mr. Chairman: Thank you, Ms. Foran. Okay.

Mr. Shymko: We have not heard from the Liberals.

Mr. Lupusella: Right. I mean, it is my turn, Mr. Chairman.

Mr. Chairman: Well, Mr. Lupusella, yes, a short one, but realizing the time constraint.

Mr. Lupusella: Thank you, Mr. Chairman. I would like to raise a question to the solicitor that is very brief and, again, I want to go back a little bit to the complexity of subsection 2(1) of Bill Pr57. I heard you make some comments, but one thing we have to realize is that on that particular subsection 2(1) we are faced with the intrinsic aspect of the power of the council, along with the power of the Ontario Heritage Act. Those two tangents are really intrinsic.

You have to realize that and that is why I think members of the committee have been raising this particular problem all over again. But generally speaking, I support the bill, even though some amendments are going to be pursued later on. I think the mayor is not opposing the amendments as well.

But can you make me happy on clause 2(2)(b) that the people surrounding the particular area will be notified not only with a newspaper advertisement but with something that is more direct, such as mailing the notice of the council to the people who are very close to the place that eventually will be in question. Do you have any objection to that, besides the small fee that has to be paid or the cost that the municipality is going to incur? If you want public participation, this particular feature must be included in this bill. Do you agree with that or do you have great reservations?

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Ms. Foran: I think it would be more than just a minor amendment to the bill. Legislative counsel can tell you better on that.

Clause 2(2)(b) says that where a person applies to the council, at this stage it is just talking about a designated building, so it is the owner of the designated building who applies under the Ontario Heritage Act. Basically, the application is made under the Ontario Heritage Act right now, and the applicant applies to the council. The council then has to consider whether the building can be demolished. Basically, if it is a designated building, the council can either consent to it or refuse. Is that what you want the public to be notified of, the refusal of council to consent to demolish?

Mr. Lupusella: No. If it were done at this particular stage, there would be no public input whatsoever. I think we have to go back a little to the embryo stage of the application. Maybe the applicant has to pay the money, and the not the city, to notify the people surrounding the particular area affected by it.

Ms. Foran: We have some concern as to what it is they are to be notified of. Counsellor Kanter has just said, "Perhaps you are talking about the designation," whereas clause 2(2)(b) talks only about the application to demolish. Again, Bill Pr57 has nothing to do with notification of the actual designation. That is done under the Ontario Heritage Act. The proper time to amend that is--

Mr. Lupusella: You see, it is a little bit confusing.

Ms. Foran: Yes, it is, because people keep confusing the two acts. The proper time to amend the Ontario Heritage Act is with the ministry review. There is not any way we would start to put that kind of amendment to the

Ontario Heritage Act. We agree: Wait until the review comes on that. We will make briefs at that time. That is the time.

Mr. Chairman: Is that satisfactory?

Mr. Lupusella: Yes, it is satisfactory. I got the message. You understand that those two components are so intrinsic that they cause some problems.

Ms. Foran: I find it confusing myself.

Mr. Chairman: I had asked unanimous consent to allow Mr. Bermingham to come back, but I understand that the way this committee runs is that the applicant is given a second opportunity to come back, and that is the reason we have you back.

Ms. Foran: Mr. Chairman, I have not responded to Mr. Bermingham's comments. While you were out of the room, I offered to. I said I would go through each one of the points word by word, and nobody took me up on my offer. If you want me to, I am quite willing to do that.

Mr. Chairman: When no one takes you up on your offer, perhaps it is better not to offer.

Ms. Foran: But if there is going to be a further response, then I feel duty-bound to my client, the city, to put in my comments.

Mr. Chairman: In fact, I have been advised by the clerk that the reason the applicant is allowed to come back is that it is traditionally the way it is done. I guess maybe my previous life made me require that they be given a second crack at it, but I need unanimous consent to do that.

Mr. Shymko: I would hate to see you in your next life.

Mr. Chairman: Do I have unanimous consent to that effect?

Mr. Shymko: Pass it by us again.

Mr. Chairman: As I said, without unanimous consent we cannot invite Mr. Bermingham--

Interjection.

Mr. Shymko: Would somebody check whether those bells are for a quorum or a vote?

Mr. Chairman: The clerk will check. Until we know what it is, we cannot do anything. Is it a vote?

I have asked for unanimous consent. I do not believe I have it.

Mr. Shymko: You want unanimous consent?

Mr. Chairman: To allow Mr. Bermingham to come back, but that would then require--

Mr. Shymko: Absolutely. We are flexible, reasonable people.

Mr. Chairman: We also require Ms. Foran to come back, because she would want to respond to Mr. Bermingham.

Interjection.

Mr. Chairman: You do not have to give a point of order. I gather we have not got unanimous consent, because Mr. Cordiano wants to speak against it.

Mr. Shymko: We do not know whether he wants to speak against it. Maybe he wants just to set a time limit and be reasonable--

Mr. Chairman: What do you want to do?

Mr. Shymko: --as he always has been.

Mr. Chairman: Are you granting unanimous consent? Are you agreeing to it?

Mr. Cordiano: I am a little concerned about the timing of all this.

Mr. Hennessy: On a point of order, Mr. Chairman: I would like to have a recorded vote.

Mr. Shymko: I just wanted to hear whether or not there was any objection from Mr. Cordiano.

Mr. Cordiano: We are just running on in time. I do not know what the schedule allows, but I would imagine that if we do go into the House for a vote, that will take some time. By the time we get back, we may not have enough time to finish this section or even, for that matter, get to the amendments by the end of the day.

Mr. Chairman: I think all parties are interested in seeing this dealt with one way or the other.

Mr. Cordiano: In the interests of time, you are not going to--

Interjection.

Mr. Chairman: We will stand adjourned until the vote is taken in the House.

The committee recessed at 4:57 p.m.

17:35

Mr. Chairman: Before we continue, committee, I should relate to you that Mr. Shymko apparently had to leave to go to another matter. I am not sure what Mr. Shymko is planning on doing, but it may have been, I gathered, perhaps a deferral. His other two members indicate that, because he is not here, they do not consider it fair to continue. I am just relating this to the committee so that you are aware of what is happening.

We do have, however, enough people to constitute a quorum under the standing orders, and if you wish, we could continue. It is obvious we are not going to be able to complete this today, though, because we have to read the amendments into the record.

Interjection: No, we do not.

Mr. Chairman: Oh, we do not? I am told we do not have to read them into the record, so we might be able to deal with it. I wonder if the committee wishes to deal with it under the circumstances of what I have just related to you that I have been made aware of.

Mr. McKessock: I move that we proceed with the bill and try to finish by 6 p.m.

Mr. Chairman: I made you aware of what the circumstances are, but I feel a little indefinite about it because, as you know, even if it is passed here and it goes into the House, they can move it back.

Mr. Haggerty: --the Conservatives are filibustering the bill.

Mr. Chairman: We will continue, but I would ask the clerk if she would see if she could contact Mr. Dean or Mr. Hennessy and explain that I have explained the situation to the committee and they have moved. I gather it is unanimous that we proceed. We have unanimous consent, in light of what I have told them, to proceed, and I would like to give them an opportunity to be here. Okay?

We will proceed. Ms. Foran, you were going to address some of the concerns that were raised by Mr. Bermingham. I have to be quite candid. Mr. Bermingham asked me about the question that was raised of who winds up being prosecuted if the building is not proceeded with. I think you will recall that he raised that issue of whether it might be a mortgagee who would foreclose, a mortgagee in possession or a subsequent purchaser, and I think that perhaps is something you might want to address.

Ms. Foran: I think, as I have explained to the committee, the first reading bill has been substantially amended simply because of the comments from the minister and from the Attorney General. Therefore, there has been some confusion in the brief from CIPREC between the first reading bill and what we are now asking. The only possible interpretation of the act could be that if A comes to council, is refused permission to demolish and then turns around and demolishes the building, A is the one who is responsible. He cannot get out of that responsibility by selling the building. On the other hand, if A comes to council for permission to demolish, is refused, then gets his building permit and then transfers it over to B, then B has to come back to the council because, under the Ontario Heritage Act, he has to come back to council to get his permit, and then they will deal with it there.

There does not seem to me to be any real problem. Again, it is somewhat of an academic thing because it seems to me that if A goes to all of the trouble to go to council, get the consent, wait the 180 days and then get his building permit, if he transfers the property, he is going to have to deal with the building permit. Nobody is in fact unaware of that condition. The condition is there. Therefore, it is up to A to protect himself in whatever way. Certainly if you are talking about a major development, the major developers know how to protect themselves in situations such as that. They would get some kind of insurance that the building would be built.

To me, what is confusing people here is the confusion between looking at Bill Pr57, the first reading, before these amendments came along. We would have preferred, I suppose, to go by lien and therefore bind all subsequent purchasers, but it has not been possible, simply because the minister requested, or certainly indicated, that there would be no support of the bill if it remained in that form, so the Attorney General changed it. Now the onus is on the person who demolishes that building, which is where it should be.

Mr. Chairman: Any further questions by members of committee? Are you ready to vote?

Mr. Lupusella: Yes.

Mr. McKessock: Carry on.

Mr. Chairman: Just a second. I just want to clear something with the clerk before we proceed. We are entitled under the standing orders to continue the committee in the absence of representation from each party because there is a majority of members here. The question I have concerns about is whether or not we are entitled to vote under those circumstances. That is what I want to clear with the clerk before we proceed.

The clerk is going to check and find out whether we can vote. It would be an exercise in futility to conduct the vote and then find that, when it got into the House, it was sent right back here. Let us take a few minutes now to make certain that we can.

Mr. Lupusella: While she is checking into this particular item, is there any way for members of the committee to get the full list of people belonging to the Ontario heritage board or the historical board--what is it?

Ms. Foran: The Toronto Historical Board?

Mr. Lupusella: Yes.

Ms. Foran: Yes. I think it is set out in the brief from CIPREC, if I could just refer you to that.

Mr. Lupusella: There is also an Ontario heritage board, or are we talking about two different things?

Ms. Foran: Yes, there is an Ontario Heritage Foundation. I think the people--

Mr. Lupusella: Foundation.

Ms. Foran: That is a provincial organization, whereas the Toronto Historical Board is a statutory agent of the city of Toronto. In other words, it is just another arm of the city.

Mr. Lupusella: Thanks.

Mr. Chairman: --in checking with a senior clerk, that we are entitled to vote. Are you ready for the vote?

Before we proceed to the vote, is there unanimous consent--I do not think we need it, but just to be on the safe side--that the amendments themselves be deemed to be read? Is there unanimous consent to that?

Agreed to.

Mr. McKessock: Do you want me to indicate each amendment as the section comes along?

Mr. Chairman: Yes.

On section 1:

Mr. Chairman: Mr. McKessock moves that section 1 be amended as circulated.

All those in favour of section 1 as amended? Opposed? I would like to see some hands, please.

Motion agreed to.

Section 1, as amended, agreed to.

On section 2:

Mr. Chairman: There is an amendment to section 2 as well. Mr. McKessock moves that section 2 be amended as circulated. All those in favour of section 2 as amended?

Motion agreed to.

Mr. Chairman: There is an amendment to section 3.

Mr. McKessock: I move that section 3 be amended as circulated.

Mr. Offer: Just a second now. That is subsection 2(1). There are three amendments in section 2.

Mr. Chairman: Mr. McKessock moves that subsection 2(1) be amended as circulated.

All those in favour of subsection 2(1) as amended?

Motion agreed to.

Mr. Chairman: Mr. McKessock moves that subsection 2(2) be amended as circulated. It reads: "that subsection 2(2) of the bill be struck out and the following substituted therefor." I presume the way we do that is to vote against subsection 2(2) as it is in the bill and then vote for the substituted section.

The clerk indicates that we can do it that way. All right. Those in favour of subsection 2(2) as amended?

Motion agreed to.

Mr. Chairman: There is also the addition of subsection 2(6).

Mr. Offer: That was the first amendment. That has already been voted, in fact.

Section 2, as amended, agreed to.

Mr. Chairman: There is no amendment to section 3.

Interjection: Yes, there is.

Mr. Offer: There are three amendments to section 3.

On section 3:

Mr. Chairman: Mr. McKessock moves that section 3 be amended as circulated. Those in favour of section 3 as amended?

Motion agreed to.

Mr. Chairman: Mr. McKessock moves that subsection 3(1) be amended as circulated. Those in favour of subsection 3(1) as amended?

Motion agreed to.

Mr. Chairman: Mr. McKessock moves that subsection 3(2) be amended as circulated. Those in favour of subsection 3(2) as amended?

Motion agreed to.

Section 3, as amended, agreed to.

On section 4:

Mr. Chairman: Mr. McKessock moves that section 4 be amended as circulated.

Motion agreed to.

Section 4, as amended, agreed to.

On section 5:

Mr. Chairman: Mr. McKessock moves that section 5 be amended as circulated.

Motion agreed to.

Section 5, as amended, agreed to.

On section 6:

Mr. Chairman: Mr. McKessock moves that section 6 be amended as circulated. Those in favour of section 6 as amended?

Motion agreed to.

Section 6, as amended, agreed to.

Section 7 agreed to.

On section 8:

Mr. Chairman: Mr. McKessock moves that section 8 be amended as circulated. Those in favour of section 8 as amended?

Motion agreed to.

Section 8, as amended, agreed to.

Sections 9 and 10 agreed to.

Title agreed to.

Preamble agreed to.

Bill, as amended, ordered to be reported.

Mr. Chairman: I would remind you, committee, that next week we do not have authority to sit after routine proceedings. We have a full schedule. We are starting at nine o'clock, and I would ask the indulgence of all committee members to be here promptly to start at nine o'clock so that we can accomplish clearing up the bills. It will be in committee room 1.

The committee adjourned at 5:48 p.m.

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T-7

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

TOWNSHIP OF CHAPLEAU ACT

CITY OF BARRIE ACT

CITY OF LONDON ACT

GREAT LAKES BIBLE COLLEGE ACT

PORT STANLEY TERMINAL RAIL INCORPORATED ACT

CANADA CHRISTIAN COLLEGE AND SCHOOL OF GRADUATE THEOLOGICAL STUDIES ACT

WEDNESDAY, JUNE 24, 1987



STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

CHAIRMAN: Callahan, R. V. (Brampton L)

VICE-CHAIRMAN: Haggerty, R. (Erie L)

Bryden, M. H. (Beaches-Woodbine NDP)

Dean, G. H. (Wentworth PC)

Hennessey, M. (Fort William PC)

Lupusella, A. (Dovercourt L)

McKessock, R. (Grey L)

Miller, G. I. (Haldimand-Norfolk L)

Pouliot, G. (Lake Nipigon NDP)

Shymko, Y. R. (High Park-Swansea PC)

Wiseman, D. J. (Lanark PC)

Substitution:

Smith, E. J. (London South L) for Mr. Lupusella

Also taking part:

Allen, R. (Hamilton West NDP)

Laughren, F. (Nickel Belt NDP)

McLean, A. K. (Simcoe East PC)

Clerk: Manikel, T.

Staff:

Mifsud, L., Legislative Counsel

Witnesses:

From the Ministry of Consumer and Commercial Relations:

Offer, S., Parliamentary Assistant to the Minister of Consumer and Commercial Relations (Mississauga North L)

From the Township of Chapleau:

Pellow, A., Clerk-Administrator

From the City of Barrie:

Rowe, I. J., Legal Counsel; with Boys, Seagram and Rowe

Kirkpatrick, D., City Engineer

Bates, R., City Clerk

From the Ministry of Municipal Affairs:

Tomlinson, J. R., Senior Solicitor, Municipal Affairs

Gray, L., Adviser, Legislation, Policy, Local Government Organization Branch

From the City of London:

Blackwell, R. A., City Solicitor

Choma, A., Environmental Control Engineer

Williams, G. E., Alderman; Chairman, Environment and Transportation Committee

From Heath Consultants Ltd.:

Hennigar, W., President and Chief Operating Officer

From the Ministry of the Environment:

Bartkiw, D., Assistant Director, Waste Management Branch

From the Great Lakes Bible College:

Reinhart, R. W., Legal Counsel; with Shuh, Reinhart, Cline

Tallman, D.

Broadus, E.

From the Ministry of the Attorney General:

Sokol, S. J., Counsel, Charities Department, Office of the Public Trustee

From Port Stanley Terminal Rail Inc.:

Jolliffe, R. M., Director

Jolliffe, Mrs. R. M.

From the Canada Christian College and School of Graduate Theological Studies:

McVety, Dr. E. S., President

McVety, C., Administrator

Robinson, Dr. W. K., Trustee

Reinhart, R. W., Legal Counsel; with Shuh, Reinhart, Cline

From the Ministry of Colleges and Universities:

Cummins, R. L., Director, University Relations Branch, Universities and Research Support

Mackay, B. J., Co-ordinator, Capital and Operating Grants, Universities and Research Support

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday, June 24, 1987

The committee met at 9:16 a.m. in committee room 1.

Mr. Chairman: I apologize. It took an hour and 45 minutes to get here from the good old town of Brampton.

Ms. Bryden: It takes about that in the city of Toronto to get through the construction.

Mr. Shymko: Before we proceed, and I know we have delegations for a number of private bills, but on a point of order and a point of procedure, Mr. Chairman: I found out yesterday that apparently on Wednesday of last week you proceeded with the passage of Bill Pr57, An Act respecting the City of Toronto, notwithstanding the absence of all members of Her Majesty's official opposition on this committee.

I am very distressed by this action. It is unprecedented in terms of the parliamentary tradition and the procedures of all standing committees. In the experience I have had in the years I have been elected, and my colleagues here at the provincial level, and having been a member of various standing committees, and I have had the opportunity to serve in the House of Commons in Ottawa, it has always been a tradition that you do not begin a committee meeting unless there is at least one member of each party present.

Normally, one would not proceed with the passage and the vote on bills unless there is at least one member of each party present. It is a tradition that has been with us for much longer than our own existence. We, as the three members of the opposition who have sat on this committee, were not given the indication last week that you would proceed with a vote on this bill. I understand you requested a nine o'clock meeting today. The impression we had was that would be to give us at least 15 or 20 minutes to proceed and to complete Bill Pr57.

I am deeply distressed. I had indicated to you that I personally had a problem in coming back after the vote in the House because of another commitment. Normally, Mr. Chairman, someone in your capacity uses the discretion and the respect we have had for that very important tradition that makes the democratic aspect of our British parliamentary system so fundamental and so respected by so many jurisdictions in the world.

I am deeply distressed. I wanted to have a motion of no confidence in you, as a chairman, because of that action. I do not know whether I will proceed with such a motion, but that decision certainly has all the characteristics of giving weight to such motions. I am distressed because of the action and the decision, I guess, of our colleagues of the other two parties in committee.

0920

I know that, had the chairman been a Tory or someone else, and had the members of the Liberal party been absent for the vote on a bill on which they participated and on which they may have wanted to have some amendments or motions, they would have been upset.

Any member of the New Democratic Party would have been very upset and we certainly would have heard objections in the House. I want to tell you, Mr. Chairman, that I have spoken to our House leader. It may be raised in the House. I think it is probably being discussed today with the other House leaders and I have requested that the bill be referred back to committee.

Some of us may have had some amendments we wanted to introduce; I had a motion I wanted to introduce. I am very distressed by this action.

Mr. Chairman: First, Mr. Shymko, let me assure you it is not unprecedented. It has been done before. I would refer you and your House leader to standing order 99(a), which allows a committee to proceed where "a majority of the members of a standing or a select committee, including the chairman,...constitute a quorum."

We had, in fact, the majority of the members here. The members who are here today, I am sure, will confirm I relayed to them the fact that you had indicated you had a 5:30 appointment at your constituency office, and the fact that the other two members would not attend because you could not attend.

On unanimous consent we proceeded with the bill, Mr. Shymko. Now, if I did something wrong by doing that--in fact, we checked with Mr. Forsyth, because I had some concern about whether we could, in fact, vote pursuant to standing order 99(a). I was assured we could. The vote was taken.

Now we are going to proceed with the bills.

Mr. Shymko: Mr. Chairman, if you would allow, I will just complete my remarks and perhaps some other members of the committee may want to add to my remarks. I wanted to say that absolutely, if you want to follow the rules of the standing orders, you can do it every day by beginning meetings of this standing committee with the absence of other parties.

That certainly would not be against standing orders. I am talking about the spirit of a British parliamentary tradition, the spirit of democracy that has always superseded. You can be legalistic and you can follow standing orders to the letter of the law. I am raising an issue that is beyond that. It is a respect for a tradition, for a behaviour, for a sense of respect for one another that has always been followed by either chairmen of standing committees or by the House leader in our actions and behaviour in the House.

And so I am not questioning the standing orders. I am just raising the tradition.

Mr. Chairman: Mr. Shymko, I am going to interrupt you, because we have business to get on with. If you are moving a vote of no confidence, I suggest you move a vote of no confidence in the entire committee, because it was done with unanimous consent.

We are going to call the first bill, which is Bill Pr19.

Mr. Dean: Mr. Chairman, just before you do that, I want to say that regardless of whether what transpired last week was legal or not, I feel that when you knew the members of one of the parties were not going to be here for good reason, it would have been courteous of you to say, "We'll stand this over until"--

Mr. Chairman: Mr. Dean, I made the committee fully aware of that. In

fact, I was prepared to do that. The committee, on unanimous consent, agreed to proceed. Since the people from Toronto were here, we dealt with the matter.

Mr. Dean: Well, that is not quite accurate.

Mr. Hennessy: Well, Mr. Chairman, I do not agree. I think you are very biased. As far as I am concerned, I think you run a very poor meeting. I think you knew before what you were going to do--

Mr. Chairman: Thank you very much, Mr. Hennessy.

Mr. Hennessy: I am disappointed in Ms. Bryden in regard to her not standing up, at least, for our side. I think we would have stood up for her side. I am very disappointed in her.

Mr. Chairman: I would like to call Bill Pr19. Mr. Laughren, you are here to present the bill.

Mr. Hennessy: We need a new chairman.

TOWNSHIP OF CHAPLEAU ACT

Consideration of Bill Pr19, An Act respecting the Township of Chapleau.

Mr. Laughren: Thank you, Mr. Chairman. Perhaps I could put a new mood in the committee by thanking you very much for your co-operation in scheduling this bill, and other members of the committee for agreeing to squeeze this bill into your very busy schedule. I appreciate it very much, as do the people in Chapleau.

With me is Allan Pellow, who is the clerk-administrator of the town of Chapleau. In case you do not know, Chapleau is about 550 miles from here and on the doorstep of the world's largest game preserve. It would be a beautiful place for all of you and your friends to come and visit this summer. Anyway, I will not make too blatant a pitch for the people in Chapleau.

We will turn over the meeting to Mr. Pellow, who is the clerk-administrator.

Mr. Chairman: Mr. Laughren, we have a fairly comprehensive compendium before us. Unless some committee members wish to hear further information, I think that this probably gives us sufficient. We could then turn it over to questions from members of the committee.

Mr. Hennessy: Has the government any objections?

Mr. Chairman: I was just going to check that.

Mr. Hennessy: Perhaps you would ask us to ask the question. You want to run the whole show. You want to vote too?

Mr. Chairman: Mr. Hennessy, if you are displeased with my---

Mr. Hennessy: I am displeased with you very much, yes. I have asked to speak and I think you should let me speak. There is no point if you are going to ask the questions.

Mr. Chairman: I did let you speak.

Mr. Hennessy: All right, let me speak.

Mr. Chairman: I am going to ask Mr. Offer first whether there are any objections.

Mr. Shymko: Mr. Chairman, you asked Mr. Hennessy if there were any questions and he did raise a question. He asked whether the government had any objections. So why do you not ask and not make such a fuss about it?

Mr. Offer: Thank you very much, Mr. Chairman. On behalf of the government, it is our recommendation that the proposal be supported as the municipality, with the assistance of field services of the Ministry of Municipal Affairs, has explored various options and determined that this acquisition is the most economic option available. The Ministry of Natural Resources has indicated a willingness to make the subject lands available for a nominal sum. Accordingly we have no objections and support this particular application.

Mr. Chairman: Are there any questions by members of the committee?

Mr. Hennessy: I move passage of the bill.

Mr. Chairman: Are there any other questions by members of the committee? All right. Questions have been called. Shall sections 1 through 3 carry?

Sections 1 to 3, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill Pr19 agreed to.

Bill ordered to be reported.

CITY OF BARRIE ACT

Consideration of Bill Pr45, an Act respecting the City of Barrie.

Mr. Chairman: The next bill is Bill Pr45. I understand that this might be delayed a bit. I was told that the solicitor coming from Barrie has been delayed. He is here? Fine.

Mr. McLean: Attending this morning is Ian Rowe, the solicitor for the city of Barrie, and Don Kirkpatrick, who is the city engineer, and Rick Bates, the city clerk.

This is an Act respecting the City of Barrie. "The purpose of the bill is to permit the city of Barrie to refuse to allow an owner of land in specified areas to connect or use sanitary sewers or water mains, newly-installed by the city or the public works commission of the city of Barrie until the owner has paid his or her share of the cost of such installation."

These are the explanatory notes for the bill, Mr. Chairman. The

solicitor may want to proceed further. Perhaps the ministry will have some input into this.

Mr. Chairman: Thank you, very much. I wonder if you would like to identify yourself for purposes of Hansard.

Mr. Rowe: My name is Ian Rowe. I am appearing as solicitor for the city of Barrie. On my right is Richard Bates, he is the city clerk for the city of Barrie. On my left is Donald Kirkpatrick, the city engineer for the city of Barrie.

Mr. Chairman: I understand, Mr. Rowe, that there are certain amendments which you have seen and are agreeing to. Is that correct?

Mr. Rowe: We have discussed certain amendments with respect to section 219 of the Municipal Act, for the ability to compel parties to connect to the sewer system. We are in agreement with the proposed amendment. There have also been discussions with respect to the interest. We are content that the reference to section 412 of the Municipal Act be removed. That was merely a means of calculation and there are alternatives with which we are satisfied.

Mr. Chairman: Perhaps before you proceed further, I am going to ask Mr. Offer if he has any comments from the government.

Mr. Offer: If I could just comment on the amendment at this point. These have just been decided upon at this particular time. They are being prepared and photocopied for committee members. With respect to those amendments we find that the city and the government are in agreement with them. I just wanted to indicate this to the members.

0930

Mr. Chairman: Perhaps we could proceed. Will these be ready quickly? Oh, they are being photocopied right now so they should be available pretty soon.

We have a fairly considerable compendium before us and I certainly would not want to cut you off from adding anything you might feel would be helpful to it, but if you wish, we can proceed to questions from members of the committee.

Mr. Rowe: I would be satisfied with that procedure.

Mr. Chairman: Are there any questions? Mr. Hennessy?

Mr. Hennessy: Mr. Offer?

Mr. Offer: We have no objections to the bill, as--

Mr. Hennessy: Now, answer the question.

Mr. Offer: --to be amended.

Mr. Hennessy: If you do not have any objections, we are not going to change it.

Mr. Chairman: Are there any other questions from any members of committee?

Mr. Dean: The only question I have is to the delegation. What position does it put the city in if there is an order from the board of health regarding a sanitary sewer situation?

Mr. Rowe: The position of the amendment would be that although the existing bylaw was passed pursuant to a predecessor of section 219 of the Municipal Act, which allows the municipality to compel attachment or connection, it would not apply as of the date of the bill. But if a subsequent matter were to come before the council or the city with respect to a specific problem on notice of that owner, we would propose to pass a specific bylaw with respect to that type of connection.

Mr. Dean: In other words, you would accommodate this regardless of the fact that the owner still had not paid?

Mr. Rowe: The power of section 219 of the act includes power of cost of connection if they do not proceed.

Mr. Dean: I see, you would compel the cost at the same time as you compel the connection?

Mr. Rowe: If a specific problem were to arise, a specific bylaw under that section could deal with the problem and it would deal with costs as the act provides.

Mr. Dean: I just wanted to make sure we were not jeopardizing the public health of the area by doing this.

Mr. Rowe: We are satisfied that this would not arise.

Ms. Bryden: It would appear that this is part of the fallout from the tornado, in a way--

Mr. Rowe: That is correct.

Ms. Bryden: --but sometimes bad things bring good things in that the whole area is now going to have sewer and water service that it did not have before the tornado. Is this what is happening?

Mr. Rowe: That is correct.

Ms. Bryden: One does not like to compel people to change things except for the reason that the community interests are higher. This is justified, particularly in view of the fact that all municipalities, I think, are finding that private septic tanks are potentially polluting devices and that they can produce trouble with the water table or water drawn from wells. It is definitely something that should be moved ahead with. In the long run it will benefit the whole community. Can you tell me how many home owners have not yet paid? Has the bill even been submitted to them?

Mr. Rowe: The situation is that in the area in question some of the homes suffered destruction as a result of the tornado. Those owners have been allowed to connect without paying any of the costs with respect to the installation of the services. A number of other owners have connected. We have made no attempt to compel anyone else to connect. I am not sure if we have the statistics as to how many people have opted to connect and how many have not. I know a number have, but people who had actually suffered damage from the tornado have been allowed to connect at no cost and that was the intention of the grant.

Ms. Bryden: The rest who have not connected presumably are served with septic tanks.

Mr. Rowe: That is correct. It was not our intention to compel people with functioning systems to connect.

Ms. Bryden: It is not your intention, but you will have the power under this bill.

Mr. Rowe: As a matter of fact, there will be an amendment moved, as I understand it, that will preclude the city relying on its existing bylaw to compel connection. I believe this was the point of Mr. Dean's question, that if a subsequent difficulty should arise, this section would not preclude us from proceeding under section 219 of the Municipal Act on that specific occasion.

Ms. Bryden: But you feel that this additional legislation may be necessary if problems arise.

Mr. Rowe: No. I do not believe that this particular bill will apply to those particular situations. Our intention is that it would be dealt with under section 219 of the Municipal Act on a case-by-case basis as cases arise. The purpose of the bill today is that it was not the intention of the municipality or the province with respect to any grants that were available that parties who had not suffered any damage should be allowed to connect at no cost.

Ms. Bryden: That seems fair enough to me.

Mr. Shymko: I understand it is because of these very unusual circumstances of the disaster in the area that this bill is before us.

Mr. Rowe: We were not able to proceed under the Local Improvement Act simply because of the time involved. The people had suffered the loss. It was the intention of everybody to right that situation as quickly as possible. Otherwise, we could have proceeded under other legislation, but the time did not permit and the situation did not permit.

Mr. Shymko: Have there been any objections from the public to the council of Barrie on this bill?

Mr. Rowe: The bill has been duly advertised in the Ontario Gazette and in the local paper, and I am not aware of any inquiries of a negative nature.

Mr. Shymko: Following along the line of the question from Ms. Bryden, what percentage of the owners of land were victims and what percentage were nonvictims in Barrie, generally? Is it 50-50 or--

Mr. Rowe: In this specific area?

Mr. Shymko: Yes, in the specific area that will be affected by the installation of the watermains and sewage connections.

Mr. Rowe: Apparently, approximately 75 per cent of the residents in this area were affected by the disaster and approximately 25 per cent were not.

Mr. Shymko: So we are talking about 25 per cent of owners of land that will be affected by this bill.

Mr. Rowe: In the defined area.

Mr. Shymko: Of that 25 per cent, I understand some nonvictims of the disaster have had connection to the sanitary sewers and the watermains and were not required to pay for this connection. Is that true?

Mr. Rowe: My understanding is that, notwithstanding that the bill has not passed, we have charged on the basis as if it had been done under the Local Improvement Act or as if this bill were in place. To my knowledge, nobody has been able to connect who did not suffer damage who has not contributed to the cost.

Mr. Shymko: This will be equally applicable to all nonvictims?

Mr. Rowe: That is certainly our intention, and that is the way it has been handled to date.

Mr. Shymko: You do not have anyone who will be retroactively affected who has had the installation and connection but has not paid as yet?

Mr. Rowe: My understanding is that is not the case.

Mr. Shymko: What is the average cost of such an installation and connection?

Mr. Rowe: I am told it would be approximately \$5,000; the approximate cost of putting in a new septic system in any event.

Mr. Shymko: You would not demand a full payment? If it is difficult for some home owner, let us say a pensioner, and the \$5,000 will be a major disbursement of funds, is there a possibility of spreading it over a period of time?

Mr. Rowe: The act does not contemplate it in the same manner as the Local Improvement Act. That could probably be dealt with on a compassionate basis by the municipality, but the act does not contain that mechanism.

Mr. Shymko: In the light of the \$5,000 figure and special circumstances, perhaps it would be wise to look at some way, on a compassionate basis, not to impact too strongly on individuals who may be on a fixed income and for whom the \$5,000 would be a major disbursement of funds.

Mr. Rowe: I believe our municipality would do that in any event, but I am not in a position to say the bill provides for that type of amortization.

Mr. Shymko: Would you have any objections to an amendment to the bill providing for special circumstances of individuals where, for compassionate reasons, you would extend the impact over a period of time?

Mr. Rowe: Presumably, if it were to be amortized in the same manner as a Local Improvement Act charge, there would not be any difficulty, but we did not contemplate that there would be a sufficient number of people to require dealing with the mechanism in the act. Perhaps the municipality could be entrusted to deal with it on a compassionate basis if that case were to arise.

Mr. Shymko: Your local improvement tax is amortized over a period of time?

Mr. Rowe: I believe it can be amortized up to 15 years.

Mr. Shymko: Up to 15 years?

Mr. Rowe: Yes.

Mr. Shymko: That is the only concern that I have, if there is any possibility of somehow drafting an amendment that would give special consideration to those who may have difficulty with it. I do not know how real it is, but if the council of the city of Barrie has no objections to such an amendment, I just wondered whether we could introduce one.

Mr. Chairman: Mr. Rowe, are you indicating that there is no objection to that? There is provision under general--

0940

Mr. Rowe: We would obviously prefer to have the bill as simple and as clean as possible. The theory certainly does not offend us; however, we would like to be entrusted, I suppose, to deal with it on a case-by-case basis, on a compassionate basis, ourselves. As I say, it is not that we object to the idea, but we believe we can do that ourselves without making the bill any more complex than it is now.

Mr. Shymko: The reason I have raised this is that we have had some amendments to municipal acts with regard to market value assessment. Most municipalities have realized that if one is to implement, for example, that aspect, it will impact in an increase in property taxes in a major way on those who may be adversely affected by the burden of such an increase. Practically every municipality has had a clause providing for that type of compassionate implementation of the increase.

So, because of the precedent of protecting individuals on compassionate grounds, especially those on fixed incomes, single mothers and so on, of whom you may have a proportion in your municipality, as we have in various municipalities in Ontario, that is the reason, and I think it would probably improve the bill and give it the quality it certainly deserves and that you want to have.

Mr. Rowe: I certainly do not want to indicate that we would have any difficulty with that type of amendment.

Mr. Chairman: I am advised, Mr. Shymko, that there is general legislation which allows municipalities to assist people who are having difficulties, but there is a means test, I am told, involved with it. Most municipalities do not like to go through it. If you are proposing that as an amendment--and Mr. Rowe is not agreeing to it, I gather--

Mr. Rowe: No, I do not take any exception to that, if it is deemed necessary.

Mr. Chairman: If you feel strongly about it, you will have to move it and we will have to vote on it.

Mr. Dean: I also wonder whether it is necessary, knowing there is overriding general legislation.

Mr. Shymko: I would be quite comfortable with that, if there is in

fact--you just mentioned this. Could the ministry representative just explain. which overriding legislation that is?

Mr. Offer: It is a section of the Municipal Act. We are just pulling out the--

Mr. Chairman: Could we move on to Mr. Haggerty in the interim, unless you have further questions?

Mr. Haggerty: I have a couple of questions directed to the panel. How long has the line been installed? Has it been an existing line, or is it just a current new line?

Mr. Rowe: The new installation was completed on October 8, 1985.

Mr. Haggerty: Was there an existing--

Mr. Rowe: No, it was an area that was serviced by private disposal systems.

Mr. Haggerty: So it was private. In other words, it is--

Mr. Rowe: Septic systems and wells, all private.

Mr. Haggerty: You did not do it under the Local Improvement Act, did you?

Mr. Rowe: No. The reason it was not done under the Local Improvement Act was simply that the timing required under the Local Improvement Act was considered to be prejudicial to the area. Because they had suffered this loss in the tornado, everybody was anxious to get the line in, and it just would have taken too long. That is really why we are here today: we were not able to use that mechanism.

Mr. Haggerty: Was any assistance provided through the disaster assistance program on this particular program?

Mr. Rowe: As indicated, specifically, the parties who had suffered damage as a result of the tornado were reimbursed for the costs of connection, so they did not pay anything with respect to the installation. The grant the municipality received from the province was not allocated to specific projects, so what amount might conceivably have been allocated to this project really has not been determined. But the parties who did suffer damage did not pay.

Mr. Haggerty: So it was actually the service area that picked up the cost of it, you might say; it was spread out through the whole community. Am I pretty well correct in that?

Mr. Rowe: Within reason, with the understanding that there were grants received from the province with respect to the tornado. Certainly, one could apportion a portion of that to this project, but no specific allocations were made with respect to this project.

Mr. Haggerty: Could the municipality not have handled it another way? For example, when the other parties want the connections now, you could retrieve that money by a higher connection charge. Instead of the normal \$700 or \$800 connection charge, you could raise it to \$2,000 and get it that way.

Mr. Rowe: The feeling was that because, normally speaking, as the city of Barrie has an already existing private bill, when a private developer installs services, that developer is able to recover a portion of those costs when somebody in between connects to the services, or under the Local Improvement Act there is a mechanism. What we were concerned with, and why the bill is presented to you today, is that there did not appear to be a mechanism to do what you are suggesting, over and above the normal cost of connection.

Mr. Haggerty: I thought there was under the present Municipal Act, that council could move in that direction and that you could increase the service connection charges from the normal \$1,000 or whatever it may be in that municipality to cover the line or the lateral in front of the property.

Mr. Rowe: I am not specifically aware of any such provision.

Mr. Haggerty: Am I correct in that?

Mr. Chairman: We were busy trying to find the compassionate section.

Mr. Haggerty: The question was, to somebody from the ministry's office, can they not now apply to recover some of the costs of that line by allowing municipalities a higher service connection charge? If the normal connection charge is \$800--it could be higher than that in that municipality--they could say, "To recover that portion that is not included even in the bylaw, when they want the services, then they will pay the top price for them."

Mr. Hennessy: Not if it is on public property. You can do it on private property.

Mr. Haggerty: No.

Mr. Tomlinson: Not for a part of the cost of the actual main itself, which is what they are trying to recover here.

Mr. Haggerty: As I understand it, under the previous Municipal Act you could not charge a person for that section of that line in front of his property for the service of water or sewers, but the way the municipality could get around it was to charge a higher connection charge to recover that cost.

Mr. Tomlinson: Technically, that is not good. They may have got away with it but, technically, that is not legitimate, I do not think.

Mr. Haggerty: That is one way of getting it, though. You can do it that way.

Mr. Tomlinson: Some municipalities, I suppose, have got away with doing that.

Mr. Haggerty: I just thought it might be a better way than bringing in a private bill. I am sure other municipalities do that.

Mr. Chairman: Any further questions from committee members?

Mr. Hennessy: The only question I have is, are you going on private property?

Mr. Rowe: No, the sewers were installed in the road.

Mr. Hennessy: I know that, but then they have to connect to the house. They would look pretty good in the road if they were not connected anywhere. They have to be connected somewhere.

Mr. Rowe: The private connection is between the road and the individual owner.

Mr. Hennessy: That is what I am asking you, sir. Are you going on the private property of the resident?

Mr. Rowe: Only with respect to the actual lateral connection.

Mr. Hennessy: If you are going on private property, I will not support it. Public property, yes. All taxpayers pick up that cost. It is subsidized by the government.

Mr. Rowe: The owners of the property themselves are responsible for the cost of the lateral connections in the normal course of events.

Mr. Haggerty: To the main line.

Mr. Rowe: To the main.

Mr. Chairman: Were septic tanks destroyed during the tornado? If they were, are they covered by some form of insurance? Would these people have recovered something from insurance for them?

Mr. Rowe: I do not believe so. The area was a low-lying area that would not be conducive to new septic tank development. It was an existing situation the city inherited on an annexation. The health unit of the county is very much against the reinstallation of new buildings to these septic systems.

Mr. Chairman: No, my question was, were the septic tanks destroyed as a result of the tornado and did these people recover some form of insurance compensation for the destruction of their septic tanks? That may solve Mr. Shymko's problem. They may have already received some form of money, which will just be turned over for the cost of connecting that.

Mr. Rowe: I do not believe the septic systems themselves were destroyed. They still exist.

Mr. Chairman: I am going to have Mr. Offer respond. We thought there was a provision for compassion, but apparently it applies only to taxes, not to this, which could be termed a levy.

Mr. Offer: Yes, I think what you are saying is correct. There are some provisions under the Municipal Act, but they are not as clear as you might want. There would have to be a fairly broad interpretation of a particular section for it to apply, just in response to your concern.

Second, with respect to the septic tanks, we are informed that the local board of health has advised that it would not be in the best interest to replace those septic tanks with new septic tanks. Because of the fact that it is in a low-lying area, they would want the area built up, and the whole procedure of doing so is not, in their opinion, the best route to follow.

Mr. Shymko: If I can give this information simply to give you the gist of an amendment I would like to introduce, it basically will say that the cost of the work under subsection 1 will be subject to an exemption of phasing in the payments for those individuals on fixed incomes, on compassionate grounds, on a case-by-case basis, at the discretion of the corporation of the city of Barrie and amortized over a period of time, as is the case for local improvement rates.

Mr. Rowe: We have no difficulty with that, Mr. Chairman. One point to indicate, I suppose, is that in the normal course of events, when somebody is going to be compelled to connect, not by the municipality but by the circumstances, the alternative would be the installation of a new septic system, which as Mr. Offer has indicated, the district health unit would not approve in Simcoe county.

The cost at that time would have to be borne by that person in any event, without any ability to amortize other than by financing through, I presume, a second mortgage. But with respect to the amendment proposed, we have no difficulty.

Mr. Chairman: Do you have that written out, Mr. Shymko?

Mr. Shymko: Yes, I do.

Mr. Chairman: There have been substantial amendments made to this act. In fact, almost the entire act has been amended. The bill will probably have to be reprinted because of the number of amendments, but as soon as we have Mr. Shymko's amendment, we will--are there any further questions or are committee members prepared to vote?

Mr. Haggerty: I have three amendments.

Mr. Chairman: All right. I am just inquiring whether we are ready to vote, Mr. Haggerty. Mr. Shymko, can you help to decipher your hieroglyphics for the purpose of the vote?

Mr. Dean: While we are waiting to consider Mr. Shymko's amendment, I have a question about it, or do you want to wait until it is written?

Mr. Chairman: Just hang on for a second, Mr. Dean.

Mr. Dean: I just want to be sure of two things: first, that the wording of it will be approved by legislative counsel somehow so that we do not unwittingly put something unsatisfactory in it; second, that it really is an assistance to the council. I am not convinced that it is. I understand the council may be able to deal with this in some other way, but maybe I am wrong on that. Perhaps the solicitor could advise on that.

Mr. Rowe: As I indicated with respect to Mr. Shymko's questions, I believe the matters would be dealt with on a compassionate basis when individual cases arose that required that. Therefore, I hope the municipality would be entrusted with that role. If that were the case, the amendment may be redundant. However, if the committee feels the amendment is required, we have no problem with it because we believe that is what we would do in any event.

Mr. Dean: My opinion would be that we leave it out. I do not want to preclude any other discussion on it, but I would like to be assured on the first aspect of it, that if it is accepted, it would be subject to review by some legal mind to declare it is not going to make--

Mr. Chairman: We will clear that first, and then when it comes time to vote, you can vote as you wish. That will determine whether it is going to be passed or not.

Mr. Shymko: I want to see legal experts as well.

Mr. Chairman: Maybe while we are waiting we will give counsel the opportunity to review it. We will proceed with the other items.

Mr. Dean: Do you wish to have these amendments moved, or are you at that point yet?

Mr. Chairman: Mr. Haggerty is going to move the amendments, Mr. Dean, thank you.

Shall section 1 carry?

Mr. Dean: Are there no amendments to section 1?

Mr. Chairman: There is one to subsection 1(2), which I am going to ask Mr. Haggerty to move.

Mr. Haggerty moves that subsection 1(2) of the bill be amended by striking out "at the same rate as interest is calculated on arrears of taxes under section 412 of the Municipal Act" in the second, third and fourth lines and inserting in lieu thereof "at a rate not to exceed the highest prime rate quoted on the day that the work was completed."

Shall subsection 1(2), as amended, carry?

Mr. Dean: I would just like to ask what the purpose of this is? What is wrong with doing it by the Municipal Act?

Mrs. Gray: The purpose is that section 412 of the Municipal Act applies a penalty interest rate to somebody who is in arrears of taxes, which could be higher than the prime rate at the time. It could be at this moment, I gather, as high as 16 per cent. We wanted a ceiling put on the interest rate but not a penalty provision put on the interest rate. That is why we made the change.

Mr. Chairman: Shall the amendment to subsection 1(2) of the bill carry?

Motion agreed to.

Mr. Haggerty: I move that section 1 of the bill be amended by adding thereto the following subsection:

"(3) A bylaw passed by the council of the corporation prior to the coming into force of this act under section 219 of the Municipal Act or a predecessor thereof does not apply to the owner of a building on land against which a share of the costs has been assessed under subsection (1)."

Mr. Dean: There is a phrase in the amendment just read that is not in the copy I have. What is going on?

Mr. Chairman: Would you read it again, please, Mr. Haggerty?

Mr. Haggerty: It is following the words "council of the corporation": "prior to the coming into force of this act."

Mr. Chairman: I do not have that in my copy, either.

Mr. Dean: Whose doing was that?

Mr. Tomlinson: That was added at the very end. The first version may have gone out and then that was added. It is the essence of the whole thing, so I think that should be added.

Mr. Haggerty: It was on the advice of the staff of the Ministry of Municipal Affairs.

Mr. Chairman: Are there any further questions?

Mrs. Gray: The implication of the phrase is that there is an existing bylaw in Barrie that might force owners to connect in. The sense of it is to prevent that bylaw, which was passed prior to the coming into effect of this act, from applying to this act. It may be that in future, with pollution problems, Barrie may want to consider section 219 of the Municipal Act and apply it to this section if pollution problems should give it the need to ask an owner to connect in, in future. We did not want to prevent them from being able to do that in the future; we just wanted that the existing bylaw not apply to this act.

Mr. Chairman: Are you content, Mr. Dean?

Mr. Dean: I guess that is all right if the people from Barrie are satisfied with it.

Motion agreed to.

Mr. Chairman: Mr. Haggerty moves that section 1 of the bill be amended by adding thereto the following subsection:

"(4) In subsection (2), 'prime rate' means the lowest rate of interest quoted by a chartered bank, named in schedule A of the Bank Act (Canada), to its most credit-worthy borrowers for prime business loans."

Motion agreed to.

Mr. Chairman: Mr. Shymko moves that section 1 of the bill be amended by adding thereto the following subsection:

"(5) The cost of the work under subsection (1) is subject to an exemption of phasing in the payments for those individuals on fixed income on compassionate grounds provided on a case-by-case basis at the discretion of the corporation of the city of Barrie."

Shall subsection 1(5), as amended, carry?

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Mr. Haggerty: I have a question on that.

Mr. Chairman: A vote has been called, but if an explanation would--

Mr. Haggerty: I have not even raised my hand yet.

Is that not covered in the preamble of the bill itself? It says, "...the city of Barrie on the 31st day of May, 1985, extensive damage occurred in areas of the city; that the corporation arranged for sanitary sewers and water mains to be installed to the damaged areas; that the corporation wishes to recover a portion of the costs of the installation from the owners of land who were not victims of the tornado."

It is right there. Those are compassionate grounds right there, as I interpret that.

Mr. Shymko: I think Mr. Haggerty has not understood the gist of my motion. The compassion is affecting nonvictims who may have to shell out an additional \$5,000.

Mr. Chairman: Who cannot pay it, who may not be able to pay it.

Mr. Shymko: It is to phase in that \$5,000 payment.

Mr. Haggerty: I understand that. The point is, just how far should we go with compassionate terms? Should that not be left to the municipality to decide, without defining it in an act?

Mr. Shymko: That is what we are doing. We are giving the municipality the power of discretion in deciding.

Mr. Haggerty: I think they have it there now.

Mr. Chairman: Your comments are similar to those of Mr. Dean, but you can exercise that decision by voting for or against the amendment.

Mr. Haggerty: I just raise the question that we may be establishing a precedent in this particular bill that will apply across Ontario. If we are going to go that way, then it should be general legislation.

Mr. Chairman: You can exercise your vote in that respect.

Shall subsection 1(5), as amended, carry? I would like to see a show of hands.

Mr. McLean: That is not including his motion.

Mr. Chairman: No, that is the one we are talking about.

Mr. Shymko: This is my motion.

Mr. Chairman: Mr. Shymko is in favour. Those opposed?

Motion negatived.

Mr. Shymko: So much for compassion.

Section 1, as amended, agreed to.

Sections 2 and 3 agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

CITY OF LONDON ACT

Consideration of Bill Pr51, An Act respecting the City of London.

Mr. Chairman: The next item before us is a bill dealing with the city of London. I understand there is a slide presentation. If committee members wish to view that slide presentation, we will need about five minutes to set up for it. We would take an adjournment for that period of time to do that.

Mr. Dean: Is this going to help us or is it just entertainment?

Mr. Chairman: I am not sure. Ms. Smith is before us and I am sure she would like to show anything about the city of London.

Ms. E. J. Smith: Maybe we could proceed with this bill. If questions arise, then we could have the slide presentation. I think it is a fairly clear bill.

Mr. Chairman: That is fine. Perhaps you would introduce the deputants for the purposes of Hansard.

Ms. E. J. Smith: I would like to introduce Gary Williams, a member of our city council and the alderman of the area in London most affected by the methane gas situation, and Bob Blackwell, the city solicitor. Mr. Choma is the environmental control person and Wayne Hennigar is with Heath Consultants Ltd.

When I was still on city council, London had the misfortune of having a methane gas explosion, which is probably the subject of the slides. There was some question as to the fact that in this particular case a subdivision had been built on land that was not properly infilled and had been, in fact, a garbage site. What happened was that the methane gas then followed cracks in the underground area of the soil and, completely unexpectedly, caused a house to explode, neighbouring houses to be damaged and, of course, many of the neighbours to feel that not only was this a potential risk but also that their land values had been affected to some extent by the risk.

There was a lot of work done, and Heath Consultants were brought in to monitor the area. The situation is very much under control now, thanks to the work that has been done.

Others may want to speak to this, but just speaking on behalf of the bill itself, the bill that is before you puts forward the city's wish to be able to monitor and demand of people that in fact they do the necessary work on their own property to control the methane gas. This obviously is desirable, because it is a risk not only to the people whose property it is directly on but also to neighbouring people. I know certain cases where there are tenants

rather than owners living in these houses, so it is a safety precaution. I do not know who in the delegation would wish to address it.

Mr. Chairman: The compendium is fairly complete. Perhaps one or more of us has experienced exactly the same thing in our own municipalities with vacant landfill sites where there has been building. Perhaps we can go to questions, and if there are any questions that require a further analysis, we would be happy to hear from you.

Mr. Haggerty: Just one question for clarification: This seems to put the onus on the municipality in the matter of containing the methane gas. Is there any other government agency, such as the Ministry of the Environment, that should be involved in this? It could be a costly item for the city to send out and do the proper inspections on it. Perhaps some other government agency may have the technology to provide additional information in areas of methane gas.

Mr. Blackwell: Perhaps I could respond to that question. In the preparation of this bill, we did have discussions with the regional director of the Ministry of the Environment with respect to this matter. While the municipality is taking over the bulk of the responsibility under this bill, the discussions we had I think assured us in London that we would certainly get the co-operation of the Ministry of the Environment whenever it felt the matter was of the nature or of sufficient importance that it fell within its jurisdiction.

Perhaps I could just add that we felt it was necessary to proceed with this bill because really the matter we are dealing with is a bit on the fringe of what the Ministry of the Environment normally deals with, and as far as London goes, it is fundamentally a local problem.

Mr. Chairman: Perhaps we can have a comment by Mr. Offer that may also clarify this.

Mr. Offer: As indicated, that is absolutely correct. The government has no objection to this bill. The Ministry of the Environment is now addressing the issue of the prevention of future problems through the preparation of guidelines for staff responsible for reviewing development proposals on or in the vicinity of existing or former landfill sites.

We are recommending that no objections be made to the bill. The city has provided a program to deal with the elimination of hazards from methane gas on properties within the municipality. We think it is a responsible approach and a workable approach, and accordingly, we have no objections to this piece of legislation.

Mr. G. I. Miller: Do other municipalities have the same legislation?

Mr. Offer: No.

Mr. G. I. Miller: Is this the first?

Mr. Offer: It is our understanding that this is the first and it is viewed as very much a pilot project in that respect.

Mr. Chairman: Those are bad words to use, "pilot project."

Ms. Bryden: They are words that get the committee concerned about

why it is a pilot project and why the ministry has not brought in general legislation, either the Ministry of the Environment or the Ministry of Municipal Affairs, in order to control this very real Hansard--hazard.

Mr. Dean: That is what you want to control; it is definitely Hansard.

Ms. Bryden: Is it correct that no other municipality has any legislation of this sort to require certain steps to be taken about abating methane gas on private property?

Mr. Offer: Not only is that correct, but it is also correct, I believe, that no other municipality has requested this. It is very particular to certain areas within the province and that is what the Ministry of the Environment is currently analyzing to see whether this type of legislation is properly one that should be general legislation as opposed to specific legislation for specific areas.

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Ms. Bryden: The ministry has had two years under the new regime to look into this. It seems to me we might have had some more action, because it is, as the applicants have said, a very serious problem. Is it true that municipalities themselves, on their own property, are undertaking measures generally to eliminate the hazards? Say landfill sites, for example. Do you know?

Mr. Offer: We have Mr. Bartkiw from the Ministry of the Environment who might want to respond to that question as to whether private owners are taking specific measures to minimize the risk of methane gas.

Mr. Bartkiw: I am with the ministry's waste management branch.

As was mentioned, we are drafting technical guidelines primarily aimed at future planning for land use development around landfills. We have the power under the act to require the owner of a landfill to control any pollution problems that impact offsite, but in many cases the owners of these landfills are municipalities. As I understand it, this bill would permit municipalities to deal with local problems on a day-to-day, operational type of basis. It would offer them the flexibility of dealing with the owner, or requiring any controls or monitoring on the owner's property, the municipality being the owner of the landfill. The responsibility is really with the municipality to solve the problem of landfill gas.

Ms. Bryden: So there are no provincial guidelines requiring municipalities to have special rules of their own for landfill sites, either in operation or abandoned ones that may still be in their ownership?

Mr. Bartkiw: Right now, there is a policy dealing with the separation distance for planning purposes. In other words, there are specified minimum distances where development cannot take place either for a closed or an active landfill, but that is for planning purposes. In terms of day-to-day operation, we can require any owner at any time to curtail any pollution problems, including landfill gas.

Ms. Bryden: What sort of monitoring do you do on landfill sites, either operating or closed, to see whether there is a substantial quantity of methane gas emerging?

Mr. Bartkiw: Normally, the owner engages a consultant to design a gas collection and venting system, whether the active or passive system. Unfortunately, under certain conditions, climatic for example, where the ground is frozen or where there is sandy soil, the gas can migrate underground without the owner being aware of it. This is where the danger lies to the owner adjacent to the landfill. This gas is odourless and colourless, so the owner may not be aware of it until it is too late, until the mixture in his home is of an explosive nature. I think this is why it is very important for the municipality to deal with this problem on a day-to-day basis. As the owner, it is closely in tune with the problem.

Ms. Bryden: It would have to set up a monitoring system too, but specifically, what does the Ministry of the Environment have in the way of a monitoring system for seeking methane gas, even though as you say, it can disappear or hide itself?

Mr. Bartkiw: There are two ways, if the ministry is made aware of the problem. A lot of times the landfill gas has some odour to it and residents or the owners of homes may complain because of an odour. The ministry is then brought in to respond to a complaint. The ministry then requires the owner, and if this is a municipality, to take action, to institute action, meaning monitoring for the landfill gas to determine whether there is any gas migrating offsite into properties, whether it is of an explosive nature, and then recommending corrective action.

Ms. Bryden: But there is no regular program of annual inspections required by the ministry? It is only done on complaint?

Mr. Bartkiw: Yes. Normally, it is brought to the ministry's attention on a complaint basis.

Ms. Bryden: Do you think there should be a regular, annual program in order to see things that perhaps are not close enough to home owners but may be still dangerous to the environment?

Mr. Bartkiw: On active sites, normally both the ministry and the municipality are aware if there is a potential gas problem, because it is monitored on a regular basis, by both the ministry and the municipality, where they inspect for other problems as well. It could be litter, it could be leachate, it could be anything else. The gas problem is addressed at the same time.

In the case of old, closed landfill sites that were closed 30 or 40 years ago, this problem does not necessarily manifest itself in a way that people are aware of it until it is too late. This is why I think it is so important for the municipalities, as owners, to monitor it with the owner.

Ms. Bryden: Thank you. Could someone from the city of London tell me what kind of monitoring it plans to do if this bill is passed in order to control the hazards of methane gas on any of the properties it owns or that may be privately owned?

Mr. Blackwell: I will ask either Mr. Choma or Mr. Hennigar to answer that. I might indicate, however, that we have had a monitoring program for about the last nine years. We are well into it now, and this is really to supplement the program we have in existence. It is not as if we are starting from a standing stop. Either Mr. Hennigar of Heath Consultants, which is retained by the city to do the monitoring, or Mr. Choma can indicate the

nature of the monitoring that is carried out.

Mr. Hennigar: If I may reply to that question, we do monitor approximately 100 homes and commercial areas on a weekly, twice-weekly or monthly basis. Yearly, we monitor approximately 250 various homes to check gas migration to see whether it is moving offsite, or the location of the gas. We do have an extensive monitoring program set up.

Ms. Bryden: How did you select those 200 homes that you are monitoring? Is it strictly on complaint from them?

Mr. Hennigar: No. It is on the basis that Heath goes out and does its various monitoring surveys. If the gas is migrating, they may move their surveys to a different area. They do monitor all the existing sites, so they can tell from the results where they should be, or perhaps that home can be dropped the next time around.

Ms. Bryden: Then do you notify the home owner of what you find?

Mr. Hennigar: Yes, we do. We have permission now to enter the property and notify the home owner.

Ms. Bryden: Do you notify him every time you are there? Let us say there does not appear to be a problem. Or do you just notify him if you find some evidence of methane that may be a hazard?

Mr. Choma: The home owners in London who have been subjected to the monitoring program for a number of years are very familiar with the weekly program. They are generally at home during the time the monitoring is taking place and are closely watching the test results in their particular home. They do know on a weekly basis or a monthly basis exactly what the situation is in their homes. If they require a documented report, that will be given to them as well.

Ms. Bryden: Normally, you do not give them a document after the check unless they ask for it.

Mr. Choma: No. It is readily available on request.

Ms. Bryden: Whether that should be routine, giving them a document drawing to their attention when it has been checked and what the results were, might be an addition. I am not sure we need to amend the bill to require that, but it seems to me the more information the home owners have and the more understanding they have that the matter is under control--it would help their peace of mind.

Mr. Haggerty: I appreciate what the city council is trying to do in this particular area in abatement of methane gas, but I am looking at, perhaps, the Ministry of the Environment staff member over there. I would suggest that perhaps you should be tightening up some legislation in this area, that you do not permit any buildings on a municipal waste site for a period of a number of years. You talk about 40, but it can be rather dangerous even after 10 years in operation. Certain areas may have been levelled off to meet the requirements under the act, but in many cases municipalities, or whoever may own the land, do not do that.

In this case, did it belong to the municipality, or was it under a private garbage waste disposal site? I would like you to respond to that, if

you can step up to a microphone.

Mr. Bartkiw: As I mentioned, we have a guideline, a policy. In terms of future development, there is a policy which dictates the separation distance between a development and an existing landfill site. These distances are specified for active sites and closed sites, minimum distances and recommended distances that have to be investigated. In other words, buffer zones.

Mr. Haggerty: So you have a buffer zone around the existing site?

Mr. Bartkiw: Yes.

Mr. Haggerty: How many feet?

Mr. Bartkiw: For an active site, the minimum distance is 40 metres. For a closed site, the minimum distance is 30 metres.

Mr. Haggerty: About 130 feet, one lot.

Mr. Bartkiw: However, for any development to be considered, one has to do a study to convince the ministry there will not be any impact within a buffer zone of 500 metres. So the policy is in place in terms of planning for the future. What the city is talking about is trying to take action on existing problems, as I understand it.

Mr. Haggerty: Did the city create the problem, or what? How did it come about? How did it allow the building to--

Mr. Bartkiw: Over the years, and of course this is before my time, there was no structured planning as there is today. A lot of owners built right up against the fence line of the landfill site, and that is wherein the problem lies.

Mr. Haggerty: So there are no homes constructed within the site itself?

Mr. Bartkiw: Not on the landfill itself.

Mr. Haggerty: Just the boundaries, then.

Mr. Bartkiw: Adjacent, very close. That is where the problem is.

Mr. Hennessy: Seeing we have three more delegations before us, I would like to ask the government representative if there are any serious objections to this bill.

Mr. Chairman: I think he has already commented.

Mr. Offer: As I indicated before, we have no objection.

Mr. Hennessy: If there are none, I would like to move passage of the bill.

Mr. Offer: Subject to one amendment.

Mr. Chairman: There is an amendment, Mr. Hennessy. Perhaps I should tell you that the amendment before you reads subsection 8(1); it should

actually read subsection 11(1). Whoever is--I think Mr. Haggerty--

Mr. Hennessy: One of the guys in red will be doing it.

Mr. Chairman: I still have Ms. Smith and Mr. Miller. Are you content to allow them to ask their questions?

Mr. Hennessy: That is entirely up to them, if they want to. I think that one bill is going to be a little lengthy. We have to realize we may not be sitting next Wednesday; it is the holiday, anyway. Therefore, people can be shut out on account of time. I am concerned. If we finish at 12 noon, their bills may not be heard and they will have to wait until after the next election.

Ms. E. J. Smith: With Mr. Haggerty's assurance that he is supporting it, and I think it is a very important and particular situation, I am quite prepared to waive--

Mr. Chairman: Mr. Miller, do you have anything to say?

Mr. G. I. Miller: I have no further questions.

Mr. Chairman: We are going to call the question. Shall sections 1 through 10 carry?

Sections 1 through 10, inclusive, agreed to.

Mr. Chairman: Mr. Haggerty moves that subsection 11(1) of the bill be amended by adding at the beginning thereof "Notwithstanding section 112 of the Municipal Act."

Motion agreed to.

Section 11, as amended, agreed to.

Sections 12 through 24, inclusive, agreed to.

Preamble agreed to.

Title agreed to.

Bill Pr51, as amended, agreed to.

Mr. Williams: On behalf of the London delegation, we would like to thank you and the members of the committee for the opportunity to come here and appear in front of you. Thank you for your consideration.

Mr. Chairman: That is very kind of you. I need a little stroking this morning, after the chastisement I received from my colleagues in the Legislature.

Mr. Dean: On a point of order, Mr. Chairman: Did you ask us if the bill should be reported? I did not hear you say that.

Mr. Hennessy: You did not ask that, Mr. Chairman. You had better come back to it.

Mr. Chairman: I thought I did. Shall I report the bill to the House?

Bill ordered to be reported.

Mr. Chairman: Thank you very much. That is very good of you. Your usual stipend will be paid for that assistance.

Mr. Hennessy: Mr. Dean is right, but I did not want to embarrass you.

Mr. Chairman: Bill Pr1. Perhaps Mr. Allen will introduce the deputants to us for purposes of Hansard.

Mr. Allen: I think the legal representative of Canada Christian College would like to present an argument that this item be reversed and that the Great Lakes Bible College item come before it, if you would be willing to hear that point.

Mr. Reinhart: My name is Reinhart. I appear as solicitor--

Mr. Chairman: Would you please sit down? We have to record you.

Mr. Reinhart: I appear as solicitor for both of the next two applications, Bills Pr1 and Pr5. The belief was that Bill Pr5, Great Lakes Bible College, would take somewhat less time to be dealt with, and as they are very similar bills and both of the sponsors are in agreement, it would be my request that we deal first with the Great Lakes Bible College Act.

Mr. Chairman: If the applicants are agreed, I do not think the committee would have any objection to that. That is fine.

Mr. Dean: I notice that Mr. Andrewes is the sponsor of the bill. I do not see him here.

Mr. Chairman: Is Mr. Andrewes here?

Interjection: He was here. He just left.

Mr. Dean: He probably thought it was going in its regular order.

Mr. Chairman: We will just check. If he is not here, we will proceed with the other one.

Mr. Hennessy: If this bill is not going to take too long, all right, but then you have to realize you have the other people. It is the idea to get everything done today, because if something happens in a week, if it is not done, it may never be done.

Mr. Chairman: We are working on that, Mr. Hennessy. We are going to try to get them all through.

Mr. Shymko: We have seen examples in the past where bills--

Mr. Chairman: Ah, Mr. Shymko, you are so kind.

Mr. Andrewes, Bill Pr5 is going to be dealt with first, so you might like to come forward and identify the presenters for Hansard and give us a brief explanation.

Consideration of Bill Pr5, An Act respecting Great Lakes Bible College.

Mr. Chairman: We have a compendium before us.

Mr. Andrewes: I appreciate the committee's indulgence in moving Bill Pr5 up one in the order. I want to introduce, on my far left, Douglas Tallman, the chairman of the board at Great Lakes Christian College, and Edwin Broadus, the president of Great Lakes Christian College, and Robert Reinhart, who is the solicitor on this bill. I think perhaps it would best if Mr. Reinhart were to give a brief description of the purpose of the legislation.

Mr. Reinhart: Mr. Chairman, as you indicated, the committee members have before them a brief compendium setting out the reasons for the application and why we are here today.

Great Lakes Christian College has been operating a religious high school and a post-secondary program in Beamsville, Ontario for many years. Upon the passage of the Degree Granting Act in 1983, it became necessary that all colleges, whether they were offering secular or nonsecular degrees, apply for status to grant degrees to their students.

The college has applied. It enjoys the support of the ministry, and the ministry representatives are in attendance today. Frankly, we have not had any problems and I think you will find the ministry is satisfied with the bill that has been developed with its assistance, and we appreciate that assistance.

Mr. Sokol, however, is here from the public trustee's office, and I believe he has some comments. To my knowledge, those are the only difficulties we are aware of. I will let him speak for himself.

Mr. Chairman: May I ask Mr. Offer first if there are any comments from the government?

Mr. Offer: It is correct that under section 2 of the act to regulate the granting of degrees, this type of request must be authorized through this type of application. From the Ministry of Colleges and Universities, there is no objection to this particular piece of legislation. However, if I might just have Mr. Sokol from the public trustee's office present to committee members some reservations or concerns from that office.

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Mr. Sokol: There is a variety of legislation that applies to charitable organizations, which can be set aside or waived by the Legislature. But it is a question of whether the Legislature wants to do that in these circumstances. I would like to make reference to the Charities Accounting Act, the Charitable Gifts Act, the Corporations Act, and the Religious Organizations' Lands Act.

Specifically, the Charities Accounting Act restricts the holding of realty property by a charitable organization, such as this one, for its actual charitable purposes. In the case at hand, we have made an examination of our files at the office of the public trustee and it would appear that there are about four organizations operating in conjunction with the school.

Our examination of our file indicated that the Great Lakes Christian College Foundation was recently dissolved by the Ministry of Consumer and Commercial Relations for failure to comply with requirements under the

Corporations Information Act. An application for revival was sent to our office. I have been informed by counsel as well as the applicant that a revival consent was forwarded to them for filing with the Ministry of Consumer and Commercial Relations without initial consultation with the charities department. The charities department, when advised of the situation, eventually informed the applicants that it could not revive the corporation because they had failed to comply with certain standard procedures that we require of all charitable organizations.

If I may just briefly list them: We require a list of the directors and their addresses, the operation of the charity by way of letters patent or supplementary letters patent and, most crucial in our investigation of any charity in Ontario, the audited financial statements. They have to be audited, by law, under the Corporations Act. Part III corporations in Ontario have to comply with sections 94, 95 and 96 of the Corporations Act and make sure those statements are audited. This would provide some internal protection for the public that the aspects undertaken by the organization are actually exclusively and wholly charitable.

In the case at hand, we have received three sets of financial statements for an organization that has been in existence since 1950. The Charities Accounting Act has been in existence since 1915. Of the three financial statements for the last three years, all three were unaudited, all three unsigned by the directors and therefore we do not know, based on this documentation, the validity of the submissions being made. I have spoken to the applicants and indicated we need audited financial statements.

There is a second problem with the applicants relating to the Great Lakes College education fund. I understand this organization was set up to hold certain realty property adjacent to the college itself. Unfortunately, the Charities Accounting Act does not allow charitable organizations to hold land unless they are using it for charitable purposes.

In the case at hand, the property was used and rented out as a farm. We have been told that the proceeds from running the farm or the rental of the property or farm has been used for charitable purposes by being returned to the college. Unfortunately, there is a technical or legal breach involved here in the degree that charities cannot use property for noncharitable purposes. That has always been the law going back as far as the 1800s under the Mortmain and Charitable Uses Act, 1888, which prevented charities from just holding property in a dead state, in a dead hand, without actually applying it for charitable purposes. Otherwise, it would be liquidated within two years.

That act was repealed by Parliament or the Legislature in 1982, but certain provisions were incorporated in the Charities Accounting Act. They are still before the public as law and still have to be complied with.

Mr. Shymko: Could I just have clarification, you have indicated technical or legal breach. There is a difference between a legal breach and a technical breach. Do you define this as a legal breach or a technical breach?

Mr. Sokol: The courts have treated the whole aspect synonymously. They have referred to a technical or legal breach. In certain circumstances, they can use their equitable jurisdiction and waive it. It is a legal breach in this case. The legal breach is that there are unaudited financial statements. The law requires audited financial statements for charitable organizations. The law also requires compliance with the Charities Accounting Act. There had not been compliance with the Charities Accounting Act through

that period and recently, as of February 1987, we received the three unaudited financial statements. But that is, as far as we know, the information we have on the organization.

These problems may be rectified. We do not know. We would rather pursue the nonlitigious method of resolving the problems, by having the applicants submit the other information and allowing us to examine it. Then get back to them and indicate if we need any other information to protect the public's interest in this fund. To date, we are in a situation where there has been delinquency and the problem has not been regularized.

Mr. Dean: I guess the first thing I would like to ask you is why have you not complied.

Mr. Reinhart: If I may, in fairness to Mr. Sokol, this particular concern was brought to our attention only this morning, one hour ago. This bill has been on the books for a long period of time. It has been scheduled for committee hearing. I am advised by my client that none of the matters referred to are matters that could not have been resolved over a period of a few hours. We obviously do not have that flexibility now.

I do not discount his comments in the sense that I am sure in fact there is a technical breach.

Mr. Dean: Correction, he said a legal breach.

Mr. Reinhart: Which he said was synonymous.

Mr. Dean: But then he redefined that.

Mr. Reinhart: Yes. The fact of the matter is that my client has documentation from the Ministry of Consumer and Commercial Relations which says everything is fine. You cannot go back to your office in the space of half an hour and bring all this documentation. The Ministry of Colleges and Universities has those financial documents. At least two of them are audited. I am not sure why he is saying they are unaudited. I have audited statements here for 1984.

Mr. Dean: Have they been submitted?

Mr. Reinhart: I think it is the case of one ministry not telling the other ministry.

Mr. Dean: Let us clarify it through Mr. Sokol. Do you have an audited statement for 1984?

Mr. Sokol: To the best of my knowledge, speaking with our chartered accountant, there were three unaudited statements with our office. Now, I should clarify what Mr. Reinhart has indicated. The Ministry of Consumer and Commercial Relations does not require the filing of these statements with our office. There are only two government offices that require such filings, Revenue Canada's charities department and the public trustee's charities department.

Mr. Chairman: Excuse me just a second. I am wondering if these filings are available. Can you rectify these items? If they can be rectified, then perhaps the way to deal with it would be to consider the bill itself and withhold third reading until these documents are filed. I think this is a

practical way of dealing with it, particularly in the light of the fact that we may not be sitting next week. I am sure these people would like to get on with their bill.

Mr. Shymko: I am surprised, as Mr. Reinhart has indicated, that he just found out--was it today?--

Mr. Reinhart: This morning.

Mr. Shymko: --this morning that he had problems. I sympathize with his having received this information at such a late date. I want to ask Mr. Sokol, was Mr. Reinhart aware of the problems after April 30, some weeks or maybe a month ago, that you have indicated to us? Did you indicate this to the applicant?

Mr. Sokol: I did not know this bill was before the House until I arrived in this office this morning, which means we were not consulted in any way on whether we would recommend any changes. We immediately checked with our office by telephone. I understood from the applicant--and this is strictly heresay--that he was aware and had discussed these concerns with his counsel prior to the date you refer to. As of February, he did file certain documents with our office, which I have indicated are not in compliance with the act.

Mr. Shymko: The first reading of the bill was on April 30, 1987. I want to ask you, Mr. Chairman, and maybe the clerk, what procedure is normally followed when private bills are introduced in the House and processed through this committee. I assume that, normally, the ministries and government agencies involved would be consulted--at least for a period of almost two months now--for their assessment and evaluation of these bills. Frankly, I am surprised at Mr. Sokol's remarks that he just found out today the bill was before this committee, having had first reading almost two months ago.

Mr. Chairman: Perhaps, Mr. Offer would respond to that.

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Mr. Offer: I think a lot of what has been said on both sides is probably correct, in some way, shape or form.

Mr. Dean: You are saying Callahan is telling the truth?

Mr. Offer: I am just taking my position. I suggest to the committee that it is always in the committee's hands, that possibly it deal with the bill before it, knowing, first, that the Ministry of Colleges and Universities has no objections and, second, that there are some--I do not know what word to use--technical or procedural matters yet to be worked out between the applicants and the public trustee. In the event that the bill is passed when those matters are worked out, we would receive a letter from the public trustee indicating so and report the bill for third reading on that basis.

I just suggest this to the committee. It is always in the committee's hands, but we, at the government level, would certainly be agreeable to that. I know what I am saying now has not yet been heard by the deputants, allowing the committee members to deal with the bill with respect to its contents.

Mr. Dean: Mr. Chairman, can I be clear that what Mr. Offer is saying is the same as what you said? We could, if we so desired, agree to the bill in principle here, but not recommend third reading until any objections that have

been raised by the public trustee's office are eliminated. Is that what you are saying?

Mr. Chairman: Standing order 83 actually says: "Private bills, after second reading, shall be ordered for third reading, unless specially ordered referred to the committee of the whole House." That would be one way of dealing with it.

Mr. Dean: That would probably be a good way of doing it, then.

Mr. Chairman: It would be referred to the committee of the whole House, and if the filings were made and the committee agreed, it could then move on to third reading.

Mr. Dean: I would certainly be most reluctant--in fact, I do not think I could possibly agree to recommend it out of hand for third reading. After all, are we going to circumvent our own laws? I hope not.

Ms. Bryden: First, is it correct that this bill, when it did come in, was not referred to the Ministry of Colleges and Universities for comment?

Mr. Chairman: It was.

Ms. Bryden: It was?

Mr. Offer: Absolutely.

Ms. Bryden: When did their report come back, and did it mention this technical default when it did come back?

Mr. Offer: The Ministry of Colleges and Universities has no objection to this particular bill.

Ms. Bryden: Were they aware it was in technical default with the Department of National Revenue and the other department that oversees charities?

Mr. Offer: No. I have been informed by staff from the ministry that there was no awareness of that.

Ms. Bryden: How would those branches be able to communicate that there was a default unless the ministry consulted them? Do we know if the ministry consulted them?

Mr. Offer: With respect, Ms. Bryden, that is exactly what we are trying to determine at this particular point. Not going into the communication that took place between that particular Ministry of the Attorney General and the Ministry of Colleges and Universities, we are dealing with the bill as it is before us.

We are trying, as best we possibly can, to come to grips with what has already happened, that apparently there was not that type of communication. We are attempting to give the delegation the opportunity to comply with the concerns of the public trustee, on one hand, and on the other hand, if the committee so wishes, to refrain from ordering it for third reading until that matter is heard, and then possibly pass the bill. But it is certainly within the committee's hands.

Ms. Bryden: I understand the documents were filed back in February. Is that not correct? But they were incorrect documents. When they were received by the two bodies that are supposed to receive them, should they not have been aware that they should notify this committee that the documents were incorrect? Apparently there was a long delay before it was found out. Or should you have referred to those two bodies that have to approve the documents?

Mr. Offer: Again, with respect to the type of communication, certainly it is always advisable that any delegation be well aware of the type of objections to its particular legislation prior to its appearing in the usual course. That goes without saying. That has always been the format of all the ministries with respect to matters coming before this committee.

Obviously, in this particular matter we are dealing with a situation where that type of information, for whatever reason, was not shared between two ministries. The question the committee members have to ask themselves is what they wish to do with respect to that particular fact.

Mr. Chairman: Mr. Miller, Mr. Hennessey, and then Mr. Haggerty.

Ms. Bryden: I am sorry, I am not finished.

Mr. Chairman: I am sorry, I thought you were.

Ms. Bryden: They are consulting, apparently, on their answer.

Mr. Hennessy: I remind the chair that we have two more delegations.

Ms. Bryden: I know.

Mr. Chairman: I think it is clear that something got lost in the drain. I suppose we can acknowledge that as a given. Perhaps in that vein, we could do it the way that was suggested, which was to deal with the merits of the bill and try to accommodate--

Ms. Bryden: It seems to me the ministries that received the document, found it in default and did not report to anybody concerned with this bill or to the Ministry of Colleges and Universities were the ones at fault. It is not the fault of the group here. They should have reported that these documents were not as required, so they could have been cleared up before this bill came before us.

Mr. Chairman: I think what Mr. Offer was saying is the onus really falls upon the applicant to ensure that everything has been done that is required to be done.

Ms. Bryden: But nobody told them these documents were in default.

Mr. Chairman: No.

Mr. Offer: First, in matters of this nature, the reviews by the two ministries are done independently of one another.

Second, the concern you raise is the type of information which is or is not known or shared between the public trustee and, in this case, the Great Lakes Bible College. Obviously--that was probably the first thing I indicated--a lot of what was said by both of the parties is correct.

The question is, what do the committee members wish to do about it? We are suggesting, on the basis of that information, that if the committee members so desire, they can consider the bill on the basis that the concerns raised by the public trustee are answered by the deputants. Then when that is done, the public trustee will provide to the chairman or to the clerk, in writing, a letter indicating that their concerns have in fact been met, and the bill can proceed for third reading. That is up to the committee members.

Obviously, if you wish, you may vote against the bill, but certainly I am not going to tell the committee members what they can or cannot do.

Mr. Dean: With respect, Ms. Bryden is correct. We should know why this goof-up occurred so that we can prevent its happening again. We should find out, not that this should affect the merits of the bill itself. We have a duty to find out why we are here in this last-minute mess.

Mr. G. I. Miller: I wonder--

Mr. Chairman: Mr. Miller, unless you have a point of order, Ms. Bryden still has the floor.

Mr. Dean: That was a supplementary, and it was important for Ms. Bryden's point.

Ms. Bryden: It was making the point that I think this should be corrected--

Interjections.

Mr. Chairman: Committee members, let Ms. Bryden speak.

Ms. Bryden: --so that it does not happen again. In some way, that could be part of our recommendation.

As far as dealing with the bill goes, if the committee report states categorically when it goes before the House that we are recommending this bill subject to the condition that this default be corrected before the bill is called for third reading--I think that has to be in our report.

Mr. Chairman: We can recommend under standing order 83 that it go to committee of the whole House, at which time it can be held until the conditions are fulfilled.

Ms. Bryden: The government calls committee of the whole House when it chooses.

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Mr. Chairman: I do not wish to cut you off, but if it is on the point of how this matter arose, I am going to move on to other members. We have two further bills we want to deal with and try to finish. Do you have anything further?

Ms. Bryden: No. I am willing to--

Mr. Haggerty: I have a supplementary on that point.

Mr. Offer: Because there have been some very genuine, legitimate concerns raised with respect to the type of information passing in this type of matter, I just want to assure the committee members that these concerns have in fact been taken down. We are going to take a look into determining why that happened, certainly with the view that this would never happen again. I just wanted those particular objections, which are welcome, not to be left hanging.

Mr. Chairman: Mr. Haggerty, if you have a supplementary on the point, Ms. Bryden--

Mr. Haggerty: I was just--

Mr. Chairman: Just a second.

Mr. Haggerty: --wondering if we could ask the clerk to shed some light on to what is properly advertised in the Ontario Gazette.

Clerk of the Committee: If you will remember, this was the one where the advertising--

Mr. Chairman: Was defective.

Clerk of the Committee: --did not include the section about people being able to write in to the Clerk of the House. I understand that Mr. Reinhart has a copy of the sworn affidavit showing the additional advertisements.

Mr. Chairman: And it has been corrected?

Clerk of the Committee: Yes.

Mr. Haggerty: It was in the Gazette, though, was it not?

Clerk of the Committee: Yes, it was in the Gazette.

Mr. Haggerty: Then I cannot find the difficulty of the Attorney General's staff over there finding--they should read it just as well as the general public. That is where the fault is.

Mr. Chairman: Mr. Haggerty, I interrupted Ms. Bryden with reference to dealing with that issue. In fairness, I think we should get on with the consideration of the bill. I now have Mr. Miller and Mr. Hennessy. You have already got in by way of supplementary, Mr. Haggerty.

Mr. Miller, do you have anything to ask?

Mr. G. I. Miller: I would like to ask the members who are before the committee this morning whether they have any problem dealing with the questions that were raised this morning as part of your concern. Can you provide that information?

Mr. Broadus: Yes, we fully intend to comply. We would not have any problem complying.

Mr. Reinhart: Frankly, the suggestion has been put forward. We are content with that. On previous similar bills, the ministry normally circulated the public trustee and we were privy to the public trustee's comments. Why it

did not happen on this bill we do not know, but we are content to accept your position on this.

Mr. Chairman: Thank you.

Mr. G. I. Miller: That being the case, it is clear in my mind that we can go ahead and vote on it. Things have surfaced here that have created some misconceptions, and we are trying to blame everybody. I think as long as you can satisfy the requirements--

Mr. Dean: We just want to find out who to blame.

Mr. G. I. Miller: That is a political situation, but I think--

Mr. Chairman: One at a time. You are going to give Hansard an Excedrin headache.

Mr. G. I. Miller: I am satisfied with the answer I received.

Mr. Chairman: Mr. Hennessy, do you have anything to add?

Mr. Hennessy: Seeing there is no objection and I do not think the people here have any objection at all, let us proceed and pass the bill.

Mr. Chairman: All right. The question has been called. Are there any further--

Mr. Dean: Just a minute. With conditions.

Mr. Hennessy: Conditions? They have already told you what they are going to do.

Mr. Chairman: We can either do it under standing order 83, specifically order it referred to committee of the whole House or, in the alternative, when it comes up for second reading in the House, it can be moved that it not go for second reading until these conditions have been met. In dealing with the question on this bill, I think we have to either pass it at this committee--we cannot pass it conditionally per se, but the understanding would be, and we have control of it, that it would not go to second reading unless these conditions were met.

Mr. Shymko: I just wanted to ask, procedurally, when you present the bill in the House for second reading, would that motion be from you as a chairman of this committee, flowing from the decision of the committee?

Mr. Chairman: Normally, I have no further function after I have reported the bill to the House. It is then called by the House leader. Mr. Andrewes has presented the bill as the member sponsoring the bill. Perhaps we can leave that initiative with Mr. Andrewes, that he will see this takes place when the bill comes before the House.

Mr. Shymko: I hope Mr. Andrewes has heard the suggestion made by the chairman.

Mr. Chairman: Could we have a little order? Mr. Andrewes, would you undertake as a member of the Legislature that when this matter comes before the House for second reading, unless the conditions have been met, the matter will not be called for second reading?

Mr. Shymko: And that you state that--

Mr. Andrewes: I believe the matter would not be called for third reading rather than second reading.

Mr. Chairman: That is right.

Mr. Andrewes: Is that my understanding?

Mr. Chairman: It has only had first reading thus far, so it has to be called for second reading and then third.

Mr. Andrewes: You would report it back out of committee and it would be scheduled for second and third reading, likely, if--

Mr. Chairman: That is right.

Mr. Andrewes: The normal procedure would be that it would be called for second and third reading on the same day.

Mr. Chairman: Right.

Mr. Andrewes: I suppose there is another alternative, that it would be given second and third reading but not proclaimed until the requests of the public trustee are met.

Mr. Chairman: That is a further alternative.

Mr. Hennessy: That is reasonable.

Mr. Andrewes: That is getting very close.

Mr. Chairman: Are committee members content?

Mr. G. I. Miller: I think it is obvious the ministers are agreeable and everything is in order. Why would it be postponed?

Mr. Dean: We do not know that everything is in order until we know about this audit change.

Mr. Chairman: Mr. Hennessy moves that it be given second and third reading and that it not be proclaimed, as suggested by Mr. Andrewes.

Mr. Hennessy: Let us have the vote on it.

Mr. Shymko: Just a second.

Mr. Hennessy: We are going to have a vote on it, Mr. Shymko. You can vote the way you want.

Mr. Chairman: The problem you have is that the question of whether it receives royal assent is a matter that is directed by the government; it is not directed by this committee. Perhaps an alternative to that is if we have the undertaking of these gentlemen on the record that they will make the filings they have stated in order to comply with the public trustee's concerns. If they were not to do that, they would in fact be in contempt of the Legislature. We certainly do not expect that to happen, but at least it will make you aware of the circumstances.

Mr. Andrewes: If I might, I sense there is some concern among members of the committee about the responsibility for this bill dropping over now into somebody else's hands. I think the committee is rightly concerned that the request from the public trustee be met. If it is appropriate procedure, I would gladly undertake to ask, when the bill is ordered for second reading, that second reading be stood down until I am assured that these qualifications are met, if that is what the committee is looking for.

Mr. Chairman: Are we content with that?

Mr. Haggerty: Just one point on that question about filing information: How many years are we going to go back? The member from the ministry's staff suggested something about a number of years. Are we going to go back beyond the statutory limits or what? What information are you looking for? How many years, two years or just the current year?

Mr. Sokol: When a corporation is under default under the Charities Accounting Act and it has been an excessive period of time on account of ignorance, we usually ask for six years. There is a consistent pattern that usually can be seen during that period. Hopefully, we would get audited financial statements. The problem here is that if unaudited financial statements were produced during that period, it would be virtually impossible to produce an audited financial statement. What we have to do is take the documents we have, raise our concerns directly with the applicants and hope they can resolve those concerns.

Mr. Chairman: For purposes of total clarification, perhaps you would tell the applicants exactly what you require on the record and we will have them say yes or no to it so that there is no lack of clarity in this regard.

Mr. Sokol: I have with me a normal notice we send under the Charities Accounting Act and I would present that to the applicants.

Mr. Chairman: I would like to know exactly. Can you not tell us in less than 10 words what you require? Is the committee content that we mark the document that is being presented as an exhibit?

Interjection: Agreed.

Mr. Chairman: Have you seen this document?

Mr. Reinhart: No, I have not.

Mr. Chairman: Perhaps we should pass that down to the gentleman and let him see it.

Mr. McKessock: Do you want a motion?

Mr. Chairman: Mr. Hennessy moved the question. Are you ready to vote?

Mr. Shymko: What was his question again?

Mr. Chairman: He moved that we vote on the bill.

Mr. Shymko: I think he mentioned something about it being passed and not proclaimed, that it be passed for second and third reading and not proclaimed.

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Mr. Chairman: You have Mr. Andrewes's undertaking to ensure that does not happen. We cannot do that.

Mr. Shymko: We cannot do it.

Mr. Chairman: If you do that, it is a conditional passing and I do not think we have the authority to do that.

Mr. Shymko: His motion is immediately out of order. I would appreciate it if you ruled it out of order.

Mr. McKessock: I move that we proceed and pass the bill and send it to the House to be called for second reading at a time when the problems with the public trustee have been cleared up.

Mr. Chairman: I do not think we can do that. What we have is the undertaking of Mr. Andrewes to attend to that and I understood that undertaking was satisfactory to the members of the committee.

Mr. Shymko: I just wonder whether, procedurally, we should not have a motion to the effect that the second reading of Bill Pr5 be stood down until the request by the public trustee is met by the applicant, something along that line, and not just leave it to the discretion of the sponsor of the bill.

Mr. Chairman: He has undertaken to do it and that is a pretty serious undertaking to make to a legislative committee.

Mr. Shymko: Would it be proper procedure to have a motion along the lines of what I have said?

Mr. Chairman: I do not think we have the authority to do so. We, as a committee, can report the bills back to the House. It then becomes a matter of the order of its being called by the government House leader. That is the reason I do not think we can do this. In fact, I would consider it out of order.

Ms. E. J. Smith: I would be glad to commit to speak to the House leader about it too. It seems to me there are three parties agreeing here. We can surely trust each other to the extent of seeing that this is properly handled procedurally. I would be glad to speak personally to the Treasurer, the member for Brant-Oxford-Norfolk (Mr. Nixon), and I have great confidence in Mr. Andrewes.

Mr. Chairman: Are the committee members content with that? We all know we want to bell the cat, but it is question of how we bell the cat. I do not mean to make light of your bill.

Mr. Andrewes: I would just add one or two comments. This bill has been in the making now for over two years. In fact, it probably goes back nearly three years. I do not want to open any old sores, but it has been around the ministry, back and forth, meeting various requirements of the Ministry of Colleges and Universities for that period of time.

This college has been in existence for 25 or 30 years. It is not a group of people who are fly-by-nights. It is a very reputable organization and it has carried on its business in a very reputable way for nearly three decades.

The concern here is that we not delay the passage of this bill for any long period of time. I think the members of the committee have indicated they want to co-operate in that.

Certainly a preliminary, cursory look at the notice received from the public trustee's office suggests there is not going to be any problem meeting these requirements, but I think it is only fair that I, as the sponsor of the bill, put on the record the concerns of the college and its solicitor that it be the committee, and not the public trustee, that makes the decision as to whether this bill moves through passage in the Legislature.

Mr. Chairman: I think we are back to square one again.

Ms. E. J. Smith: Yes.

Mr. Chairman: You have just put us back at square one. What we are trying to do is to accommodate. We are not suggesting for one minute that the applicants are fly-by-nights at all. What we are trying to do is expedite the matter, but it seems to me we do not have the authority to direct either that a bill be withheld or not withheld unless someone--Ms. Smith has indicated she is prepared to speak to the government House leader who would in fact call it for second and third reading--agreed that it not be called until these filings are made.

Mr. Shymko: That again is subject to a lot of questions and circumstances whether or not (a) the government whip will speak to the House leader, (b) whether the House leader will act duly on the request, (c) whether the--

Mr. Andrewes: That is not the problem at all. I am quite confident the government whip will speak to her House leader. My concern is that I have undertaken before this committee to guarantee this committee that the request from the public trustee's office will be met. First of all, you have not told me how I do that. Do I do it in writing to the committee? Do I do it verbally to you, Mr. Chairman? I do not know how I achieve that and I do not know how I communicate with Mr. Sokol as to whether this group has met his requirements. I think perhaps that needs to be clearly defined. Hopefully, there will be some commitment on all parties' part that we do it expeditiously.

Mr. G. I. Miller: Could that not be a ministry report back to you, Phil, to indicate that it is okay? It is just a simple matter of them responding to you, then you carry on with the bill. I think that is fairly straightforward. The ministry people are working for us and can advise us. From my own view, that would satisfy me that we can proceed with the bill as presented as long as the ministry is satisfied. Then we can report it back directly to Phil who is going to be responsible for bringing the bill before the House.

Mr. Chairman: No, Mr. Andrewes is not responsible for bringing the bill before the House. The government House leader calls the order of the business of the House. He has the choice of either calling it for second and third reading or referring it to the committee of the whole House.

Mr. G. I. Miller: I just brought one in for Lindsay and I was the one who presented it to the House. It was somewhat controversial. I asked for third reading and it was dealt with. I cannot see any big deal with it.

Mr. Dean: I hope we are not getting snarled in our own leash here or

something. I agree with Mr. Andrewes that the preferable way of dealing with this--by the way, is this on? My light is not on. I guess it is just me that is a dim bulb--would be to be sure that the committee is making the recommendation and the conditions, rather than saying that somebody in the government ministry somewhere is doing it. What I thought we had agreed to was the principle of the bill; that is not a problem. Because there are conditions that we normally expect such groups to meet, we want to be sure that they are met or else we are soon making a laughingstock of the conditions and the law.

I would prefer that we could report it back saying "with conditions," but you have just told me that the legal people or somebody have said we cannot do that. If we cannot do that, the next thing is to trust everybody, Mr. Andrewes, Mrs. Smith and the other people, to do what they say they are going to do. I am willing to do that.

Mr. Shymko: I have some serious problems in terms of the precedent-setting nature of some of the things we are doing now. The comments Mr. Andrewes has made are very appropriate. A sponsor of a bill can sometimes not even agree with the contents of the bill. He is simply a means of having private bills presented and processed through committees. It is unfair to give the sponsor of a bill the responsibility of deciding or being trusted or setting conditions to bills.

Mr. Chairman: It is different, though. In your comment on Mr. Offer presenting a bill last week--

Mr. Shymko: This is completely different. I think the onus is on the committee for the passage of the bill. We cannot in any way put the sponsor in a situation where he should be conditionally setting second or third reading or proclamations. The second point I want to mention is that to rely on such things as trust--We have never had precedents of bills being passed by this committee because we agree on principle and disagree on the content. Either you pass a bill or you do not pass a bill. To start relying on trust or someone communicating requests has never been done before. I really have problems with this approach. We either vote on the bill, since there is no conditional passage of bills, as you indicated--

Mr. Chairman: Right; or vote against it.

Mr. Shymko: Or you vote against it. You either support it or you are against it.

Mr. Chairman: All right, that is very kind of you. I gather we have the question of the bill before us. I am going to call that question.

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Ms. Bryden: There is one other point I wanted to raise about the bill before we vote. It will not take long. I think I should raise it because I was also going to raise it about Bill Pri. The clauses are identical in the two bills. It is a question of accountability to the public by the school.

I notice subsection 11(2) says, "The college shall publish its bylaws from time to time in such manner as the board considers proper." It seems to me they should announce to us, maybe without amending the bill, that they will make all new bylaws available to the public as soon as they are passed and not wait until they publish a new section. Then the auditor's report--it is in the other bill; I think it is in this one too--the audited statements shall be

made available. Is there one in here?

Interjection.

Ms. Bryden: Section 8. I am sorry. I am looking at the wrong bill. "The annual audited statement...shall be made available to all supporters of the college." It does not define anywhere who a supporter is, I do not think. It seems to me it should be made available to some government body that supervises colleges and universities.

Mr. Dean: I thought that was taken care of by the general act. That is why the public trustee should have been getting it.

Mr. Chairman: That is what I understood.

Mr. Sokol: Our recommendations when we saw the bill were that the Charities Accounting Act and the Charitable Gifts Act apply. I read the bill this morning and reference to those two sections has not been taken into consideration by the committee, which ultimately has the jurisdiction to decide in what form the bill will pass. We would hope that this organization would still be subject to the laws applicable to all charitable organizations. That has not been incorporated.

Ms. Bryden: Again, it seems to me the Ministry of Colleges and Universities pointed this out.

Mr. Chairman: I think we will just let Mr. Reinhart respond to that for you.

Mr. Reinhart: In fairness, the bill has been drafted like all other bills. All such colleges are subject to the Charities Accounting Act. This was discussed with legislative counsel and it was drafted accordingly. Whether you put it in does not make us any more accountable. We will gladly put it in. In fact, my draft had it in and it was removed at the request of legislative counsel. That is just unfair.

Mr. Shymko: Could we ask legislative counsel to comment on that please?

Ms. Mifsud: All these organizations are subject to the general public legislation that applies to these organizations. If we put in that they are subject to this act, that leaves in doubt, are they subject to the Public Vehicles Act if they run a car? We take the position, and I think it is the law, that these organizations are subject to all the government legislation that applies to them. It is not necessary to specifically enumerate them because they are laws of general application.

Mr. Chairman: If you name one, it may mean you are excluding the others.

Ms. Bryden: Does the present general law then mean that their annual audited statement will be submitted to a government department?

Mr. Chairman: We are advised by the representative of the public trustee, yes, under the two acts he referred to.

Ms. Bryden: Presumably, their changes in bylaws would also be reported.

Mr. Sokol: There is a problem. There is a slight distinction between statutory incorporation of a charity and incorporation by minister's discretion. If it is incorporated by minister's discretion, the courts have held that they still have total control over the entity. If it is incorporated by special statute, the courts have held that they cannot intervene with any provisions of that specific statute unless there is a breach in the maladministrative field, which means there would have to be a breach of trust. They will intervene only under those circumstances.

Your reading of that section also raised the same concerns with myself. I believe that under that paragraph, there would be no requirement in law of this organization to provide those statements to our office. The question my colleague, Ms. Mifsud, has raised has been raised in other cases. Legislatively, once it is passed by statute, you have placed limitations on the court system and its inherent jurisdiction in charitable matters. You have gone way beyond what would be anticipated by the courts. They would be able to intervene only if there is a breach of trust, so it is a question that is still open. It is a legal question.

Mr. Shymko: It is not a technical question; it is more procedural.

Mr. Chairman: Just a second, Mr. Shymko.

Are you suggesting there should be a clause in there? Is that what you are saying?

Mr. Sokol: We normally request that the standard five or six provisions that are applicable to charitable organizations as incorporated under ministerial discretion with the Ministry of Consumer and Commercial Relations also appear in the bills. The concern that has been raised by legislative counsel may be correct, but we have not had a court decision to that effect. We do not know to what degree the court will interfere with a statutory, incorporated charity.

Mr. Haggerty: Then you have to test it before the courts. They interpret it.

Mr. Chairman: Mr. Haggerty, we are still with Ms. Bryden. Ms. Bryden, in the light of what has been said by counsel for the public trustee, what do you wish to do?

Ms. Bryden: I do not want to hold this bill up, but on the other hand, even if it gets second reading it may not get third reading before this House rises tomorrow, so it could be held until the fall.

Mr. Chairman: I gather that is your concern. You are not moving that there be some amendments?

Ms. Bryden: So that amendments could be prepared.

Mr. Chairman: Are we ready for--

Ms. E. J. Smith: Mr. Chairman, before you call the vote, I really want to understand what my commitment is here, because at one point I said I would commit myself to speak to the government House leader to not call it for second and third reading until it was clarified. Now there has been more discussion. I do not know whether that commitment remains in place or not.

I am prepared to do whatever the committee instructs me, but I do not want some misunderstanding as to what the understanding is.

Mr. Chairman: The understanding is that you have committed yourself to having the House leader not call it for third reading until such time as the obligations that have been undertaken by the applicants are met.

Ms. E. J. Smith: Thank you.

Mr. Chairman: All right. Are you ready to vote on this? There are no amendments at all.

Sections 1 to 15, inclusive, agreed to.

Preamble agreed to.

Schedule agreed to.

Title agreed to.

Bill ordered to be reported.

Mr. Chairman: That was the shortest bill we have had before us. Thank you very much.

Ms. E. J. Smith: Mr. Chairman, with the consent of the committee, I would like to ask consideration to move the last item of business forward. I believe it is a strictly routine matter that would probably take three or four minutes to deal with. It is simply to get something under another act.

The reason for the urgency in this is that this group, which is here from Port Stanley, runs a volunteer railway that is very important to the summer tourist business in Port Stanley. They are meeting a red tape matter here, and I think if the committee could take the necessary time to hear them very briefly, maybe we could pass this quickly.

Otherwise, because the next bill may be very lengthy, I am afraid it may not get dealt with at all.

Mr. Chairman: If we move on to--

Ms. E. J. Smith: I would make that motion. I am sponsoring it instead of Mr. Reyecraft, and I would move that it be put ahead.

Mr. Hennessy: I would ask, on my behalf, that the final bill be given a thorough discussion, not to say, "It is X time; we will have to defer it." I want that commitment. After all, these people from the Christian school came here and they were in the middle of the pack, and they were bumped and bumped and then finally they are here.

If the last one is an indication of how likely it was going to be, it took a long time. All I am asking the committee is that you do that, and I am agreeable, but that we give the Christian school a thorough hearing also.

Mr. Chairman: Yes. I think the comments have been heard and I think, in fairness, the committee would agree to that if we have the time.

Mr. Hennessy: I would rather have it in writing. I trust you all.

Mr. Chairman: Is there unanimous consent that we move the last bill up?

Agreed to.

Mr. Chairman: We will deal now with Bill Pr18.

PORT STANLEY TERMINAL RAIL INCORPORATED ACT

Consideration of Bill Pr18, An Act respecting Port Stanley Terminal Rail Incorporated.

Mr. Hennessy: Mr. Offer, are there any objections from the government?

Mr. Offer: None whatsoever.

Ms. E. J. Smith: In the absence of Mr. Reycraft, I would like to introduce Mr. and Mrs. Jolliffe, who wish to put before you this bill with regard to their management.

Mr. Hennessy: To repeat my question, Mr. Chairman, are there any objections from the government?

Mr. Offer: No, there are no objections from the government.

Mr. Hennessy: If there are no objections from the government and nobody has any questions, let us go ahead.

Mr. Chairman: We have an amendment, Mr. Hennessy. Do I understand the amendment has been discussed with the applicants and they are in agreement with it?

Mrs. Jolliffe: Yes.

Mr. Chairman: All right. It is an amendment to the preamble in fact, and Mr. Haggerty, you have it before you, do you, or you will have it?

Mr. Haggerty: No, I do not have it.

Mr. Chairman: Just about one second. There, you have it before you now.

Mr. Haggerty: Yes, right beside it.

Mr. Chairman: All members should have a copy. I think Mr. Hennessy, as vice-chairman, has just checked to see if there are any questions by members of the committee and there were none.

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Mr. Shymko: I just want to ask the witnesses, what is this Port Stanley Terminal Rail Inc.?

Mr. Jolliffe: It is a tourist railway that operates on a piece of former Canadian National Railway track. It is now leased from the CNR and it has operated for about four years, carrying tourists a distance of three miles, up and back, from Port Stanley.

Mr. Shymko: Is it seasonal or all year round?

Mr. Jolliffe: It is strictly the summer season.

Mr. Chairman: If you would like a trip on it, Mr. Shymko, I am sure they can arrange it for you.

Mr. Shymko: Absolutely.

Mr. Chairman: All right, we are ready to proceed.

Mr. Haggerty moves that the preamble of the bill be amended by striking out "Port Union" in the sixth line, and inserting in lieu thereof "Union."

Mr. Haggerty: That may cause some difficulties.

Mr. Chairman: All right. We are doing this a little out of order.

Preamble, as amended, agreed to.

Sections 1 to 9, inclusive, agreed to.

Title agreed to.

Bill, as amended, ordered to be reported.

Mr. Chairman: Thank you very much. I appreciate your coming forward.

Mrs. Jolliffe: Thank you very much.

Mr. Chairman: Is that Bill Pr1, Dr. McVety? Perhaps the people who are joining you could take seats there and identify themselves for purposes of Hansard.

CANADA CHRISTIAN COLLEGE AND SCHOOL OF GRADUATE THEOLOGICAL STUDIES ACT

Consideration of Bill Pr1, An Act respecting Canada Christian College and School of Graduate Theological Studies.

Mr. Allen: Mr. Chairman, if you like I will introduce the people who are before you.

I propose, just for the purpose of convenience, to move from left to right. Ken Robinson, who is legal adviser to Canada Christian College, Dr. McVety, who is the president of the college, Mr. Reinhart, who has appeared before you previously with the Great Lakes Bible College, and Charles McVety, who is the administrator of the college.

If I could just have a brief word in introducing the delegation and in introducing the bill before you, the college itself goes back to 1974 and has had a continuous history since then. The bill has been before the ministry, and before the House in that sense, since 1982. There has been a lot of discussion between both parties with respect to various aspects and requirements of a Bible college and, in this case, of Canada Christian College specifically.

In 1984, I believe, a bill was put forward and then not passed. A further bill was prepared and withdrawn. We now have Bill Pr1 before us. In

the course of that time, the ministry has attempted to formulate guidelines for degree-granting purposes for institutions of this kind in the province, trying to separate them from normally incorporated and chartered universities, which are supported by the government directly, and to designate Bible colleges as theological institutions, which would have a different set of criteria applied to them.

In the first instance, the ministry was very physical, if I can put it, in terms of the criteria it laid on; namely, requiring that there were sufficient resources available to offer a sound academic program, that the community it served did indeed support the college and that it wished to offer religious or theological degrees only.

In 1986, the ministry somewhat expanded those terms, at least in language, by adding at least this sense, and I am quoting, "the support of the community they wish to serve and evidence of the ability to manage an institution of higher learning," which is slightly different language than earlier, but might have been implied in it.

In recent years, the college has attempted to meet the criteria laid out by the ministry, and I think anyone who looks over the records has to see that in terms of the physical capacity of the institution, that is certainly there. I suppose an element of the question as to ability to manage an institution of higher learning can sometimes have a subjective quality to it, which the ministry appears from time to time to have injected into the discussion, but overall, the schedule of the physical resources, the facilities, community support and so on appear to meet basic requirements that the ministry has laid out.

None the less, there have been some reservations on the part of the ministry which have not always been clear, and that is one reason I have asked that this come again before this committee, so that it can review the matter and determine for itself how it evaluates this application for status under Bill Prl. I may say that in the course of all this I am myself convinced that the ministry's own criteria for chartering these colleges are not adequate and not entirely clear and that they do need to be reworked.

In the process, the ministry has laid on a further criterion, which is third-party adjudication as determined by the ministry. That is not a criterion that the previous colleges had to meet, and I am a little concerned that an institution of the same general character as other institutions that have come before us should have to meet this additional criterion.

Notwithstanding that, I do think the criterion is a reasonable one and therein hangs the problem. Inasmuch as this is an additional criterion being asked, I have some problem with its being laid on at this point in time, when it was not laid on other institutions.

I would note that Canada Christian College, as distinct from some of the other colleges, does propose to move into graduate studies and has that in its bill. I am not personally convinced the college has the capacity to offer masters and doctoral programs at this time, but again that has not been part of the issue to date, and I suspect that issue can be handled and separated out from the existence and the chartering of the college itself as a capacity, at least, to offer bachelor's degrees.

All that being said, I do think third-party adjudication, as agreed upon by the college and the ministry, would be a useful process to undertake in

future with regard to such institutions; but not having that criterion in the past, I submit that these petitioners ought to have an opportunity to put before you their case and defend it on the ground of the criteria that have existed with regard to bible colleges and theological colleges that have come before this Legislature in the past.

Mr. Chairman: Before proceeding further, we will ask Mr. Offer whether there are any comments by the government, and then we will have the opportunity to respond to those.

Mr. Offer: For the committee members' information, to my immediate left is Rodger Cummins, who is with the Ministry of Colleges and Universities. To Mr. Cummins' left is Stan Sokol from the public trustee's office, and sitting next to Mr. Sokol is James Mackay, also from the Ministry of Colleges and Universities.

By way of comment, I would like to indicate that the Canada Christian College has been in discussions with the ministry since August 1982. Throughout the period August 1982 to the present, the ministry has opposed the college's application for degree-granting powers. This opposition is based on the ministry's opinion that the college did not have sufficient resources to offer a sound academic program or the support of the community it wished to serve.

In June 1984, the ministry agreed to re-evaluate the adequacy of the college's resources and its community support on the basis of objective criteria that were based substantially on the norm of the nine private Bible colleges that had been granted charters up to that time.

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The ministry established objective, quantifiable criteria on the basis of information contained in the audited financial statements and site visits to the private Bible colleges that had obtained charters at that time. Corresponding information supplied by Canada Christian College and a site visit to its facility indicated the college did not meet the criteria that were based on the norm established by the chartered Bible colleges.

In July 1984, the minister wrote Reverend McVety to advise him the ministry had reassessed the adequacy of the college, utilizing the information provided by the college for this purpose. The analysis indicated the college fell far short of the criteria that were based on the norm established by the already established chartered colleges.

In February 1987, the current Minister of Colleges and Universities (Mr. Sorbara) offered to appoint an external third-party adviser to review the college's application against the ministry's criteria. To date, the college has not agreed to such a review.

The ministry cannot support the application for degree-granting powers until:

It has received the personal written agreement from Reverend McVety to an external review according to the terms outlined in the minister's correspondence to him on that subject;

It has received an assessment satisfactory to the minister as a result of this type of review;

The matter of the college's existing governance is clarified and it is made clear which of the corporations carrying on business as Canada Christian College, and for which audited financial statements have been submitted in the past, is the applicant for degree-granting powers;

An audited statement for the college for the fiscal year 1986 which confirms that the applicant meets the ministry's criteria has been received by the ministry;

The bill itself has been revised to address a number of ministry concerns, in particular those relating to the status of the organization referred to in the bill as "The Association for Education and Evangelism" and the matter of the transfer of assets and liabilities from the applicants to the new corporation; and last,

The office of the public trustee indicates that the college as a charitable educational institution is in compliance with the Charities Accounting Act and is otherwise satisfied with the provisions of the bill.

These last six points are the basis on which the Ministry of Colleges and Universities objects to this particular piece of legislation.

With respect to the last point, which concerns the public trustee--and it has not been that far in the past when we have gone through this--the records of the public trustee indicate there has not been any compliance with the Charities Accounting Act by Canada Christian College. The ministry is not able, on that point, to support the bill until that compliance has been demonstrated.

I am advised that this particular information has been made known by the office of the public trustee to the applicant by letter, under date of June 25, 1986.

For those six reasons, it is the position of the Ministry of Colleges and Universities and the government that this application not be supported at this time.

Mr. McKessock: I would like a point of clarification on Mr. Offer's statement. You mentioned the public trustee was not satisfied at this point.

Mr. Offer: That is correct.

Mr. McKessock: In the statement that we received from the colleges that came to us, a brief to the standing committee, on page 4, the second paragraph says, "The office of the public trustee indicates that the college as a charitable educational institution is in compliance."

Mr. Offer: No, that is, I believe, a condition. The public trustee wants evidence that they are in compliance with the particular legislation. That evidence has not been forthcoming and is known to the applicants.

Mr. Allen: On a point of order, Mr. Chairman: You appear to be moving into general discussion and questions at the moment. Could the solicitor of Canada Christian College respond to the particular--

Mr. Chairman: I was going to do that before I took questions from Mr. Shymko, but I understood his was a point of clarification of what Mr. Offer said.

Mr. Shymko: I have a point of clarification. Mr. Offer indicated some of the criteria and requests from the Minister of Colleges and Universities. I assume all the committee members have received a letter from the Canada Christian College addressed to Mr. Sorbara. The letter is dated June 22, which was Monday, and the letter of the college is in reply to a June 19 letter from the minister, that is, last Friday. My question is: Are what were indicated to us as reservations stated in the minister's letter of June 19?

Mr. Offer: Yes.

Mr. Shymko: Is it possible to have a copy of that letter?

Clerk of the Committee: It is in your package.

Mr. Offer: In fairness, it is the minister once more restating his position.

Mr. McKessock: One more point of clarification: It is mentioned that a third-party-adviser review was requested by the ministry, and I just wondered about this report we have received by Harder Associates. Is it not a third-party review?

Mr. Offer: No, it is not.

Mr. McKessock: What is it?

Mr. Offer: Mr. Cummins would like to speak to that point.

Dr. E. S. McVety: Gentlemen, may I ask a question?

Mr. Chairman: Just a second, Reverend McVety. We are just trying to clear up here and then we will get to you.

Mr. Cummins: I am Rodger Cummins, director, university relations branch. The minister wrote to the college in February 1987 offering an external review. I believe the college replied about April 14--I will ask staff to confirm the date--stating that the college had appointed an external assessor and gave the minister something like two weeks to respond to whether that was acceptable.

The minister responded that it was not acceptable and that the minister would appoint the external adviser. But the college had apparently gone ahead and appointed its own external adviser, and I believe that report was circulated.

Mr. Shymko: I just want clarification once again. Is the report of that external adviser chosen by the college entitled Evaluation Report for Canada Christian College, Toronto, Ontario, prepared by Ben Harder, president, Harder Associates, St. Catharines?

Mr. Cummins: I believe that is the same document.

Mr. Chairman: It is filed with you, Mr. Shymko. I am going to give the applicants, perhaps through their solicitor or any of the others who wish, the chance to respond to comments they have heard from the government.

Mr. Reinhart: I have to defer to the applicant, to Mr. McVety

himself, with respect to factual items. He is much more aware and up to date on the situation.

The only item I wish to commend to this committee is to remind it of the time when the Progressive Conservative Party was in power in Ontario and Dr Stephenson proposed a bill called the Degree Granting Act. At the insistence of the then opposition, the Liberal Party, certain concessions were made, although they were not made in the bill itself.

Those concessions were that the bill was intended, at least, to deal with secular institutions granting BAs, BScs and so on and that it was not the intention of the minister or the ministry at the time to deal with bible colleges or religious institutions. It was recognized that religious institutions, not being government-funded, were a whole separate situation.

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As it turned out, the bill was bandied about the House for some period of time and was finally passed in the form you all have in front of you. But it is fair to say that certain undertakings were given or certain understandings were had that existing bible colleges would enjoy the support of the ministry in terms of obtaining degree-granting powers, provided they retained only the degree-granting powers relative to religious degrees.

I think the committee has to be well aware that we are not talking about an educational institution that is going to grant BA or BSc degrees. We are talking about a religious institution that has been in practice for at least 10 years, that can demonstrate the facilities it owns, that can demonstrate that it does not depend on public funding. With all respect to this committee, I suggest to you that the committee ought not be concerned from the standpoint of a secular degree. That just does not exist. We are talking about a private religious institution that serves a particular constituency, and serves it well.

As the facts were related back and forth this morning, I think that is the important thing that ought to be kept in the minds of the members. We are talking about a private religious institution. I will ask Dr. McVety to make any comments he has in terms of the college.

Dr. E. S. McVety: There are several items I must address. I am rather astonished that Mr. Offer's statement takes us up to 1984 and leaves our situation there.

Mr. Offer: On a point of clarification, it does not.

Mr. Chairman: Mr. Offer, I will make the point of clarification. I understand he went beyond that.

Mr. Offer: I went to 1987.

Dr. E. S. McVety: All right.

Mr. Allen: Just on the point, the factual data that were alluded to went up to 1984, and the member did move then to a recent statement of criteria and demands that the minister was making.

I did refer to inadequate facilities in 1984. The circumstances of the college have dramatically changed in a number of respects since then, and they

were not included in that statement. They are included in the larger document, of course, and it is there to be read, but the observation is correct. In terms of the statement, that was correct.

Dr. E. S. McVety: That was really my point. We had been trying to find out what the ministry really wanted of us that would satisfy it, inasmuch as we had been in operation for many years and felt that we had a successful bible college in operation.

I must point out to this committee that in the beginning of our existence, there were no regulations in Ontario that prevented the granting of a BA degree or an MA degree. The department came to us and said, "Look, you have been granting these degrees, albeit in a religious context, but we would like this change," so we voluntarily changed the name of our school. We have phased out anything that looked like a secular degree and are now strictly granting theological degrees.

We were using the Ontario Institute for Studies in Education building for several years and, in 1984, we realized that we needed permanence and better facilities, so our constituency has really gone the second mile. We bought a property adjacent to the University of Toronto that is valued now at maybe \$1.3 million and we have met the criteria that we struggled to get from the ministry and finally got in March 1986. Certainly, we have met those criteria on all the other counts, the constituency that we serve and the product. Over 200 ministers, missionaries and Christian workers have been graduated from our college.

We have suffered the last couple of years because of the objections of the ministry. Even after we met the criteria, we asked the ministry, "Is there anything else?" Time and time again we have requested meetings with the minister and in each case have been refused, wondering if there was not some area of objection that we could satisfy the ministry with through a meeting with the minister himself. Mr. Robinson and I did have one meeting with the ministry shortly after this government came to power.

This is our thirteenth year of operation. We proceeded because the time was running short. For instance, we met with the deputy minister in July, and we did not hear back from him until September. It seemed to us that another real problem was in waiting for several months before we got the advice of an external adviser, which no other bible college had been asked to give.

One matter that I must clear up--and I want to address this to the public trustee--is that Canada Christian College is operated at this point by the Canadian Nondenominational Association for Education and Evangelism Inc. It is not, as such, a registered charity; it is a nonprofit organization. Maybe the trustee can tell us how we are in noncompliance.

Mr. Robinson, would you add anything to this?

Mr. Robinson: The only thing I can add is that, as far as the Canada Christian Evangelical Missionary Inc. is concerned, which is the company or charitable organization that holds the property, the real estate, there is a financial audited statement which was given to the Ministry of Colleges and Universities, albeit it was not given to the public trustee. I have an audited statement here for 1985. The company has only been incorporated two years and, if you wish this, we can provide you with it. But it seems to me that one hand does not know what the other hand is doing as far as government is concerned, in that the Ministry of Colleges and Universities has already received this and yet you are not aware of it.

As Dr. McVety has said, Canada Christian College per se has not been a charity at all and would not become a charity until this bill is passed.

Mr. Sokol: If I may comment. I do not know if the question is directed--

Mr. Chairman: Would you like to respond to that?

Mr. Sokol: If it is the question of whether it is treated within the eyes of the office of the public trustee as a charity, the answer to that is quite simple. It is. It is operating a purpose trust for religious purposes in education which the law has deemed to be within the charitable field.

My review of the files of this corporation indicate that its letters patent, although issued by the Canadian government or the federal branch, still fall within the charitable field. If an organization is operating within Ontario, as you are quite familiar with, then civil rights and property come within the jurisdiction of the province and the province prescribes certain criteria that must be followed by all charitable organizations operating in the province.

This organization, although incorporated federally since 1980 but operating in Ontario, has not complied with the Charities Accounting Act. The first documentation or information we received on the organization was yesterday, when Dr. McVety dropped it off at the office. It is entirely insufficient at this stage.

Mr. Robinson: Can I ask you a question?

Mr. Sokol: Yes, you may.

Mr. Robinson: Have all the other colleges that have been incorporated provided the public trustee with all the necessary audited statements?

Mr. Sokol: Not all organizations have.

Mr. Robinson: Have any of them?

Mr. Sokol: Allow me to answer your question. Yes, many have. In any case where an organization is now applying for supplementary--

Mr. Shymko: On a point of order, Mr. Chairman: I do not recall witnesses questioning the ministry staff. Is that procedural?

Mr. Chairman: Mr. Allen asked that the applicants have an opportunity to respond to the statements that have been made by the government and this is what is happening. After this, there will be full opportunity for the members themselves to question.

Mr. Déan: I think the question really was who is grilling whom here. I do not think it is fair.

Mr. Shymko: As a member of the committee I wanted a question of clarification. I guess the witness supersedes that, and I question your ruling.

Mr. Chairman: That is fine. You can question the ruling. If you want to move that my ruling is incorrect, you can.

Mr. Shymko: I am not moving anything. I am questioning.

Mr. Chairman: I am not sure where we were when you--

Mr. Dean: I want to be sure that we are eliciting information from the people who are here, rather than the other way around. If they want to see ministry staff, there are lots of days in the week.

Mr. Chairman: I am not sure where we were at this point.

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Mr. Allen: On a point of order, Mr. Chairman: Can I suggest that it might be helpful if the Canada Christian College representatives were to take each of the ministry objections that remain and respond to it in turn? I have a letter from Dr. McVety to Mr. Sorbara, responding to his letter of June 19, in which there are a number of claims that those criteria have indeed been met. Perhaps it would be useful for the committee to hear those responses, particularly.

Then we can have some discussion, perhaps both responses from the ministry and discussion in the committee, as to what the status and adequacy of the responses have been and where we stand in that regard. The question about the public trustee and charitable status is part of that series, and perhaps that could be concluded in that light. We could move through those. That would be at least a rational way to--

Mr. Chairman: I thought that was the direction we were going in, until Mr. Shymko raised a point of order.

Mr. Shymko: I did not raise a point of order. I had a question of clarification.

Mr. McKessock: On that point of clarification--

Mr. Chairman: There is no such thing as a point of clarification, but go ahead.

Mr. McKessock: Can I find out when the Canada Christian College received these items that were read by Mr. Offer this morning as to the parts where they do not meet the criteria?

Dr. E. S. McVety: We submitted our bill to the minister one year ago.

Mr. McKessock: I mean these five or six points he read out here this morning. When did you become aware of these?

Dr. E. S. McVety: This letter was received on June 19. When it was known this bill would come before the committee, this letter came to us from the minister.

Mr. Chairman: Perhaps you would like to proceed with addressing the further points the government has put forward in terms of objection, and then we will get on to questions by the committee members.

Mr. Shymko: I have just one question of clarification regarding the letters of patent. It is my understanding that for a number of years the province has had a contentious issue with the federal government on the fact

that it was granting letters of patent notwithstanding that the provincial government was not granting a charter to these institutions.

I understand in August 1980 a letter of patent was given to the bible college by the federal government. Also, at that time, there was a piece of legislation here in Ontario at the provincial level which would have revoked these letters of patent. Were these letters revoked at any time following the passage of that legislation?

Mr. Sokol: In the case of the college itself, as it operates under a federal charter, the provincial charter revocation, which you have referred to and accurately identified, applied to some of the organizations Mr. McVety operated. He was operating a group known as International Evangelistic Centre of Metropolitan Toronto, which had its charitable number revoked in 1978, and was not reinstated. Also, it was revoked by the Ministry of Consumer and Commercial Relations in 1982 and was never reinstated.

There are other groups Mr. McVety has operated that also have been subjected to the same treatment by the ministry. I do not know if you wish me to go into that in any detail.

Mr. Shymko: I thought you could list which were revoked. You have mentioned one. Were there any others?

Mr. Sokol: There are a variety of groups for which Mr. McVety operated or acted. Initially, there was Bibles for the Nation, which is a group set up in the United States, known as Bibles for the World. I understand they received Canadian letters patent in 1974, and Mr. McVety operated that organization during that period. It had its Revenue Canada charitable number revoked in November 1975.

The reason given by the ministry was that Mr. McVety was using a charitable number of another organization to issue receipts. When that was discovered, the number was immediately revoked and the organization whose number was being used or borrowed was also placed under considerable difficulty of having its number revoked.

The interrelationship between the two is that Bibles for the Nation operated a building in which an agency rented or subleased property. That agency was primarily interested in commercial transactions, of airing television evangelism. That agency made an agreement, obviously, with Mr. McVety and his organization that they would pay a certain rent for the facility. It ended up that Mr. McVety, I understand, retained the services of the agency and was never able to complete his contract and was eventually sued by Sam Sherrard. Mr. Sherrard, I do not understand how, was able to sue for the equivalent or slightly less amount than the rent he owed to the organization Mr. McVety was operating.

What did occur, to our knowledge, is that Mr. McVety was asked to resign and left that organization, Bibles for the Nation, and eventually went and operated some other organizations. The one I have mentioned, International Evangelistic Centre of Metropolitan Toronto, was subject to the treatment I have just referred to from the ministry, having it revoked again.

The New Life Foundation, the group whose number was being used by Mr. McVety to issue those income tax receipts, was operated by Sam Sherrard. Sam Sherrard was the person who was operating the commercial enterprise within the charity, which is not permissible under the Charities Accounting Act or the

Charitable Gifts Act. That organization has also fallen into delinquency. We have had no filings from that organization since December 31, 1976. Its number was threatened to be revoked by the ministry. I do not know if it has complied now with Revenue Canada.

Dr. E. S. McVety: I do not know what he is talking about.

Interjection: Well, that is not the question at the moment.

Dr. E. S. McVety: Oh, okay. I am sorry.

Mr. Shymko: It is letters of patent. I just wanted to have a response to that. If you could proceed, please.

Mr. Sokol: Mr. Shymko, you are absolutely right about the legislation. Many applicants were of the impression they could get around the legislation in Ontario by federally incorporating and therefore we would not know about their incorporation as a charity. We have still taken the position that although federally incorporated and operating in Ontario, you have to comply with the legislation in Ontario. The courts have upheld that.

Mr. Shymko: This is where I have a problem because apparently the Bible college was granting degrees under the auspices of a Christian international university somewhere in the United States.

Mr. Sokol: Yes, in Illinois, I think.

Mr. Shymko: In other words, degrees were granted under the auspices of a bona fide university in the United States--in Phoenix or Texas; I am not too sure. Does your reference to the International Evangelistic Centre have anything to do with that Christian international university in Phoenix, Arizona?

Mr. Sokol: Mr. Shymko, I will have to do further research of the file because I was not really concerned--

Mr. Shymko: There is no bearing on that. Okay.

Mr. Sokol: I personally was not concerned about the issuing of the degree. I was interested in the public accountability of the charity.

Mr. Shymko: Okay.

Mr. Chairman: I am going to go back to the applicants to allow them to respond to comments that have been made by the government.

Dr. E. S. McVety: I would like to talk about many things, but I want to say that what Mr. Sokol has said is absolutely false about our ever incorporating so that what we were doing would not be known by the authorities.

Mr. Dean: Is that parliamentary?

Mr. Hennessy: Why not?

Dr. E. S. McVety: Can you come into a committee and make only--

Mr. Chairman: Members, I was a little concerned when Mr. Shymko asked for the clarification that we are getting a bit afield; it might result

in this back and forth. I will ask you to address the items the government has indicated to you, what its objections are to the passage of your bill.

Dr. E. S. McVety: Extraneous things have already now been entered into this whole discussion that could be very prejudicial and we do not have a chance even to respond to them.

Mr. Shymko: I have concern that the information I and my colleagues, as members of the committee, are receiving is being labelled as false and untrue. I have serious problems with such a statement. I just hope that it is qualified or alleged or something. I am concerned when you make such an allegation because that puts us in a very awkward situation in terms of making a judgement on the bill. Consequently, I advise you, not to be careful but simply not to insinuate things that may jeopardize not only the passage of the bill but also our judgement.

Dr. E. S. McVety: The only thing I wanted to clarify was that mention was made about receipts under the New Life Foundation, which I do not know anything about, and other organizations and matters that are completely unknown to me.

1200

Mr. Chairman: Mr. McVety, there have been certain objections made by the government and those are really the ones with which we should concern ourselves. I ask you to address those or we may not be able to complete the matter, and I think that is the desire of everyone.

Mr. Hennessy: I have to agree with Mr. McVety. You are sitting here and you expect to have a hearing. If people bring it in and, right or wrong, you have to sit there and listen to what they say, if you do not say anything, the members of this committee assume the government is right. If you get so pious all of a sudden, saying a person cannot defend himself--he is given the opportunity as a member of parliament to make statements and to defend himself. I think anybody who sits there in that chair should not feel intimidated. You get that opportunity. If you are not allowed to defend yourself, what is the use of coming here, if it is already decided what they are going to do? No, I do not agree with that. I think if you do not agree with the statement, you should say so, so I can make my decision as to which way I am going to go.

Mr. Chairman: I appreciate what you are saying, but the point was raised by your colleague, and to that, answers were given. I would like the applicants to address, first, the comments that have been made by the government. Those are really the considerations we are making with reference to that. If, afterwards, they wish to respond to the other--there has been a statement made that what has been said is totally incorrect. I do not know how you resolve that without adjourning and having the matter discussed or evidence given. That is why I was concerned with getting into that. We have got into something that is perhaps afield of what we were to consider here.

In any event, I am going to let Mr. McVety go on and address, first, if you would, the question of the objections by the government. If, after that, you feel you wish to address the other items and we have sufficient time to do it and if the committee members are content to sit that long a period of time--we all agreed we would sit for a certain period of time.

Mr. Hennessy: Let us not forget that earlier this morning the

government did make a mistake. The government is not infallible. They are only working people who are just the same as any of us. They can make mistakes, too. I am saying Mr. McVety was perfectly right in saying what he said. There was a mistake made this morning and you try to say: "The government made a mistake. Poor government. Let us try to go around the bill another way." You do not do things like that. I think anybody who comes here deserves the same privileges I have here.

Mr. Chairman: I do not think I or any member of the committee necessarily stated that was not allowable to them, but I think we should deal with the objections.

Mr. Hennessy: Well, somebody brought up as if he swore--

Mr. Chairman: Mr. McVety, would you like to deal with the objections, either through yourself or through counsel, that have been raised by the government.

Mr. Haggerty: Raised by the ministry, not by the government.

Mr. Hennessy: That is right. Now you are getting smart.

Dr. E. S. McVety: This is really what we came here to do. I am responding to the letter from the minister, dated June 19, 1987, which is approximately five days ago. He says he will not support the bill until certain things that are listed in this June 19 letter are looked after. I might say we knew that the minister was not supportive of the bill, first, because the criteria were not met. We met the criteria and the minister would still not support the bill, but would not tell us why. He would give us no reason. Neither he nor his staff, after we had met the criteria given to us, which we did in good faith, would give us reasons why they would not go along with us.

We had the feeling there were some matters of innuendo and the past, which have now surfaced here today, that might have been the cause for the minister not giving us the go-ahead, but I assure you nobody in the ministry would discuss this with us. I wrote to every member of the House. I have here letters from the Premier (Mr. Peterson), the Attorney General (Mr. Scott), Mr. Epp, all of whom said, "It is our advice to you that you proceed and take this matter directly to the committee." This is why we are here today.

On the matters in this June 19 letter, "Until I have received your personal written agreement to an external review, according to the terms outlined above and in my previous correspondence on the subject...." We have been teaching a full group of students. We came up against graduation last year and could not proceed. We felt that if we agreed to this personal or external review, it was just another stalling tactic for some reason which was unknown to us.

We proceeded to write the minister and tell him that we would get a competent person who would produce an external report, which we did and which is in the hands of the committee. The matter of the college's existing governance is clarified. It is made clear which of the corporations carrying on business as Canada Christian College and so forth, and for which audited financial statements have been submitted in the past, is the applicant for degree-granting powers. We went through this with Mr. Summers at great length. Now Mr. Mackay, who has had nothing to do with this report for two years, is apparently responsible for these suggestions. We thought these matters were

fully cared for in previous dialogue through our solicitor and through ourselves.

Mr. C. McVety: Could I add to that? The Legislative Assembly submitted our bill to the ministry back in, I believe, June 1986, asking if there were any technical problems with the governance or anything like that. We had not heard anything from the ministry about any problems until Friday, only five days ago. We had talked with Mr. Summers and conversed with him through letters. He suggested that all that was taken care of. Now it comes up again, five days before. We do not understand such a procedure.

Mr. Chairman: When was the request made by the ministry for an external review?

Dr. E. S. McVety: February.

Mr. C. McVety: February 11, 1987.

Mr. Shymko: Could I ask a question? There is a reference in the minister's letter of a May 11 letter to you, so there was some communication from the minister's office on May 11. Would you agree with that?

Mr. C. McVety: Yes, about the external report but not about the question of--

Mr. Shymko: So it is unfair to say there was no communication until Friday.

Mr. C. McVety: I was just saying there was no communication about the question of the governance, which is what we are dealing with right here. There was a question about the external report raised on May 11, but nothing about the governance of the college. That is the point I feel we are dealing with right now.

Mr. Shymko: I want to be clear again. Was there no communication from June 1986 until June 19 on the question of governance? Could the ministry representative state that? Is it a fact there was no communication on the question of governance from June 1986 until June 19, 1987?

Mr. Cummins: Can I speak to that? It has been our practice with all of the bible colleges to deal with the technical questions on the drafting of the bill itself after the minister and the ministry have agreed that the applicant meets the ministry's criteria. At that time, we do a clause-by-clause review. We do it in conjunction with our own legal counsel and with legislative counsel. The first thing that had to be established was whether the college met the criteria.

Mr. Shymko: So your ministry was doing a clause-by-clause review from June 1986 right up to the letter of May 11 when you first communicated some concerns?

Mr. Mackay: I am James Mackay, also from the ministry. I indicate that there were concerns raised with the governance as far back as June 1984, during a previous evaluation of the college. They are on record. I do not think we have our files going back to 1984 but we can produce records that these governance concerns were formerly raised and that the ministry was never

satisfied with any of the responses with respect to those concerns. I am not saying there was no response.

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These have been raised again by the minister because the bill is before the legislature. Under normal circumstances, the ministry and the applicant would have come to an agreement on both the criteria and the bill before the bill appeared here. We had to raise that issue again because the minister is stating why he cannot support the bill.

Mr. Chairman: To the gentleman who has stood up in the back of the room, I have to make you aware that you cannot speak from there. I do not know whether you are connected with the delegation. If you have something pertinent you wish to add and if one of the people before us wishes to relinquish a microphone, we will hear from you. Otherwise, I will have to ask you to remain seated.

Mr. Shymko: If I may just complete my questioning, my understanding is that you were familiar with the institution for a number of years, that you went through extensive reviews back in 1984 and that you may have felt there had been no substantive changes since 1984 in terms of the applicant's meeting the criteria in 1986. Is that a fair assumption to make?

Mr. Mackay: I would say we are not aware of any changes in the governance aspect. I think the ministry is prepared to acknowledge that there have been changes in terms of meeting the criteria. We are not satisfied yet that they are completely met. The acquisition of the facility the college now has was a significant step. We still do not have documentation with respect to another criterion, which is the number of full-time faculty. That is another way of measuring sufficiency of resources. The college indicates it has five full-time faculty. The audited statement, which is the only thing we have to go on--I must point out that it is a 1985 audited statement; it is not for the most recent fiscal year--indicates a salary item called "clergy benefits," and I think it is \$82,000. In the ministry, we have some difficulty in taking that in itself as confirmation that they have five full-time faculty, working with that kind of a salary budget.

Mr. Shymko: We do not want details. You do agree there have been some substantive changes since 1984, which you have recognized. Notwithstanding these changes, there has been no substantial change in terms of the governance aspect, and you have had some problems with audited statements that you still have questions about. Is that correct?

Mr. Mackay: I think that is right. If there have been changes to the governance, they have not been brought to our attention.

Mr. Shymko: May I just ask a question of the witness? I will not be questioning any more with respect to that statement.

The minister, in his letter of June 19, offered you the services of an external individual who would apparently investigate and review--I guess "external reviewer" would be the term--and the ministry was prepared to pay the cost of such a review. To me, as an outsider, it seems surprising that an institution would refuse an external reviewer, paid by the government, and instead go and hire one itself and pay the costs in the light of the financial problems we all have, including yourselves. First of all, would you not have seen this as a saving? Second, why would you have had objections to a

ministry--it might imply that you have something to hide. Why did you not agree as a cost-saving aspect to let them review?

Dr. E. S. McVety: There has just been an example. We spent weeks with Mr. Mackay. We changed our whole governing structure. They wanted a governing structure that would not be under our control but would be representative of our constituency. Mr. Mackay sits in this committee and says now, for the first time, that they are not satisfied with the governance. I say that is absolutely wrong.

Mr. Chairman: Excuse me, reverend.

Dr. E. S. McVety: let me finish my statement. We have changed the governing structure so that three members would be selected from different constituents so that I personally or no small clique of people would have control of the college. This was a big matter with the department. To our knowledge, they were fully satisfied with the new governance structure.

Mr. Chairman: Reverend McVety, perhaps either yourself or Mr. Reinhart can answer the question that Mr. Shymko put.

Mr. Shymko: I still have not received an answer.

Mr. C. McVety: Could I address that? On February 11, Mr. Sorbara wrote to us asking us to proceed with an external adviser. He said he did not support the view that we met the criteria yet, but an external adviser may help him do that.

He suggested a minimum of a four-month process and in our view the four-month process would make us miss this session now, get into an election and into the fall, when we have been over two years without graduation and our program in limbo.

We met with Mr. Henderson, Mr. Sorbara's parliamentary assistant, and he suggested that we go ahead and try to speed up the procedure, find the best qualified person to perform this external report, write a letter suggesting this to the minister and try to get that process on the way. We did that. We wrote a letter to the minister on April 14, asking him to reply within a week because we did not have too much time left. He did not reply for over a month. The man we had chosen went ahead with the report, produced it and it again states that we do meet the criteria, and that is what we are after here, to decide whether or not we meet the ministry's criteria. Our report has been completed and you have that.

Mr. Shymko: I guess in hindsight, the four months--

Mr. Chairman: Mr. Shymko, I do not want to interrupt you, but you have had the floor for a considerable period of time. I am going to ask for other questions from members of the committee.

Ms. E. J. Smith: I do not exactly know the significance of this, but maybe you can help me. You said you had not complied with the charitable requirement because you were not as yet a charity, although I gather you would become a charity if this bill was passed. I note that the audited financial statement that is provided by your own examination is a statement of the Canada Christian Evangelical Missionary Inc., which is a charitable arm of Canada Christian College. It is in your own statement that is a charity.

Mr. C. McVety: Yes, the Canada Christian Evangelical Mission is a charity, there is no doubt about that.

Ms. E. J. Smith: So that is the additive statement you provided?

Mr. C. McVety: Yes.

Ms. E. J. Smith: Does that meet the charitable criterion?

Mr. C. McVety: It was just yesterday we were made aware of this in our letter of June 19.

Ms. E. J. Smith: I am not too interested in the time element. If you did not have time, you should not be here. This thing has been going on since 1984, so I am not really taken up with this time bit. You can get a letter that is dated tomorrow and say that you only just got the letter the day after that. This time thing to me is a red herring.

I am asking you if you are or are not a charitable organization. You seem to be presenting yourself in your own statement as a charitable organization, and yet I seem to have heard that you did not need to meet the charitable criteria.

Mr. C. McVety: The college in and of itself is not a charity. It works in conjunction with this mission, and that is the charity.

Ms. E. J. Smith: Yes, but that could have been some of the confusion in the past revocation of licences, that something was and yet it was not.

Mr. C. McVety: No, you see that is where this whole problem has started from, right from the beginning. We have not had the opportunity, still to this date, to address that problem of a thought that there was some impropriety in our past.

Ms. E. J. Smith: I am asking you about your own statement that you are not a charity, but you have it in statements that it is a charity.

Mr. C. McVety: The mission is a charity. The college is not.

Ms. E. J. Smith: But you gave us this statement.

Mr. C. McVety: Yes.

Mr. Chairman: I think they consider that the filing is required only with reference to the charitable corporation, although the public trustee, I believe, has indicated that it would be required of either, because they are considered to be dealing with property pursuant to a trust. Is that so?

1220

Mr. Sokol: I agree with Ms. Smith. If it is a charitable-purpose trust, it is not contingent on its form whether or not you have to comply with the act. Once you have received funds for a charitable-purpose trust, you must account under that act. If this organization has demonstrated in the financial statements as having received donations from the public and, therefore, every single taxpayer is paying for its operation by paying its share of the taxes,

then it is accountable under that legislation. I do not know if there is any need to get into the semantics, if we understand that principle.

Mr. C. McVety: No, and we do not contest that. Yesterday we did submit our audited financial statements to Mr. Reynolds of the public trustee's office, and he has those documents.

Mr. Chairman: For which one, Canada Christian College and School of Graduate Theological Studies?

Mr. C. McVety: Yes. We submitted that for the college and we also submitted the documents for the mission.

Dr. E. S. McVety: We did inquire of five other Bible colleges and found that none of them had submitted documents to the public trustee.

Mr. Allen: We seem to be in a very curious situation where a statement has just been made, appears to be true, was not contested by officials at the front, but there were indeed colleges out there of this order that have not met those criteria. Notwithstanding that they might have, or that they should have--that, of course, is another question--notwithstanding that Canada Christian College should have, at some earlier date as well.

I must say I am somewhat confused by the governance question and I am not entirely sure which point we are really talking about any more, whether we are talking about governance in terms of section 4 of the bill or talking about the structure of the governing body of the college, the board, or whether we are talking about which of the corporations that have in the past or are now associated with Canada Christian College in order to facilitate it carrying on its business, which, as far as I have heard so far, does not appear in itself to be an illegal arrangement. Or is that matter being raised? I do not know that. Nobody has alleged that.

Then the third question has to do with the auditing process, the provision of a satisfactory audit with respect to any of the foregoing. Can we go through those one at a time? Is there a problem with the board, as structured in the legislation? Second, what is the status of the corporations that the college functions under or is allied with? Third, what about the audited statement? I think those are the three items and we have to clear them up.

Mr. Chairman: I agree, Dr. Allen.

Mr. Offer: I think Dr. Allen puts his finger on some of the major concerns and problems the ministry has. They are all founded on the fact that this is the reason they wish an independent adviser to take a look at these particular questions that you have raised on behalf of the delegation, to satisfy themselves. This is very different from the wording of the bill itself. We are talking about criteria, we are talking about concerns, we are talking about the Ministry of Colleges and Universities supporting or not supporting a particular application for degree-granting power. Until this particular independent evaluator has done the job, the ministry cannot support this particular application. It is for the very reason that you bring these points up that the ministry has objected to the passage of this bill.

Mr. Allen: I gather, therefore, since there has been no objection made to section 4 in the bill, there is no problem with that aspect of the governance. Is that what I am hearing? Because we keep coming back to the

other questions which are outside the bill. If that is the case, then I would like the solicitor for Canada Christian College to respond to the question of the legality and propriety of the corporate arrangement, and second, the question in that connection as to what is properly a charitable operation and what is not, and whether he can clarify that for us.

Mr. Offer: I am not clear, the way you pose the question, but with respect to the particular sector, the composition of the board in section 4, I think it was clearly indicated earlier that it is the policy of the ministry that it does not really go through the clause-by-clause investigation of the legislation until it is satisfied that the particular delegation has met the criteria.

It may be that there is some concern with that particular section, but before we go into the clause-by-clause analysis, we have to take a look at the overall criteria, whether the application, the special legislation, falls within the criteria as determined by the Ministry of Colleges and Universities. The ministry is not prepared to say whether it does until there is an independent adviser. There has not yet been agreement by the delegation to accept an independent adviser, so we are left in that position on this particular day.

Mr. Allen: With all due respect, you have never required external adjudication of any of the previous colleges, as I understand it.

Mr. Mackay: That is a very important point, and I think the minister, in his letter of February 11 and in his most recent letter of June 19, has clarified why he has offered to appoint an external adviser. It is because, for one reason or another, the college and the ministry, over the course of the discussions for many years, have never been able to come to an agreement as to whether the college meets the criteria. In the case of all previous applicants, those which the ministry was prepared to support and those which it was not prepared to support, the ministry's review of the particular college was accepted by the applicant.

The minister understands the college's ongoing concern; it is just not satisfied with the reviews that have been conducted by ministry staff. That is why he is making this offer, saying: "Okay, let us put all that behind us. Let us appoint an external adviser to advise me, independent of ministry staff, as to whether this particular applicant meets the ministry's criteria." The minister thought he had found a way out of the long impasse between the college and the ministry, and it just has not been taken up.

Mr. McKessock: On a point of clarification, Mr. Chairman: Would this adviser not only advise the minister as to whether the college meets the criteria but also advise the Bible college as to how it could meet the criteria?

Mr. Haggerty: Specifically, what are your criteria?

Mr. Cummins: Of course, the specific terms of reference have not yet been drafted for the adviser. That would follow the applicant's agreeing to a review.

Mr. Offer: It is clearly indicated that what Mr. Cummins says is correct. In the minister's letter, he says he wants to use this independent adviser to get the ministry and the applicant together with some third party, an independent person, so they can, if at all possible, resolve the problems

which are now before the committee. I think the minister indicated that he was going to be asking for a time line of no more than four months. That was in his letter of February. The minister was prepared to take the step towards reconciling the problems which had gone on, not only for the previous two or three months but also for the previous three or four years, and to try to reconcile differences of four years in four months.

The offer was not taken up, so it is before the committee.

Mr. C. McVety: May I address that?

Mr. Chairman: Just a second. Before we continue, let us at least clear the air here as to how long we are going to sit. Normally, this committee sits until noon. We agreed to sit beyond that. I am prepared to sit until 1:30, but I doubt whether other members are. I would like you to at least let me know so that in watching the clock and in regulating the questions, I will know how long we are going to sit. What is the wish of the committee? I think we all wish to have this matter resolved, and I am sure the applicants do too.

1230

Mr. Dean: Not past one o'clock.

Mr. Shymko: I have to leave now for a luncheon at 12:30.

Mr. Chairman: Is there unanimous consent to sit until one o'clock?
Agreed.

Mr. Hennessy: The only thing is, are we going to sit until one o'clock and then just say we will defer for further study, or are we going to vote on it?

Mr. Chairman: Let us get on with it and let us see if we can finish it by one o'clock.

Mr. Shymko: I am leaving for 15 minutes.

Mr. Chairman: I had Mr. Haggerty on the list before you, Mr. McKessock, unless it is a supplementary.

Mr. McKessock: I can see the advantage of an adviser if the adviser is going to not only advise the minister but also the Bible college.

Mr. Chairman: Dr. Allen, have you finished with your questioning?

Mr. Allen: I was trying to lead us to a point where we got some clarification from the applicants as to what the corporate structure currently was and whether they could clarify for the ministry this particular point, as to which corporation was carrying on the business of Canada Christian College and what status that operation had in that respect. I would like, if possible, to clear that up.

Mr. C. McVety: Could I first address the remark about the report?

Mr. Chairman: Which report?

Mr. C. McVety: The external report; why we needed that.

Mr. Allen: Could you address this other question first?

Mr. C. McVety: About the governance?

Mr. Allen: There are a couple of other questions about the external report, also Dr. Henderson's involvement in it.

Dr. E. S. McVety: Can I speak to that?

Mr. Chairman: I believe Dr. Allen has asked your son to respond to it and perhaps you can let him respond.

Dr. E. S. McVety: That is fine.

Mr. Chairman: He was quite anxious to speak while Mr. Offer was speaking.

Mr. C. McVety: I was quite anxious to speak on the matter of the external report. In dealing with the governance, maybe our solicitor should address that.

Mr. Reinhart: Frankly, I am not the corporate solicitor for Canada Christian College and I do have to defer to Dr. McVety.

Dr. E. S. McVety: The consensus when we met with legislative counsel three years ago was that the present organization, the federal corporation, would be dissolved when the new bill took over and that the applicants were neither of the organizations: neither of the named organizations is the applicant. Rather, it is the first-named board of governors representative of our constituency that would become the governing body of Canada Christian College. They felt that legally it would be much easier to have the applicants named as they are in the bill rather than have a particular organization named as applicant.

Mr. Chairman: Does that answer your first question, Dr. Allen?

Mr. Allen: I would like to know what problem the ministry has with that, if that was legal counsel's advice about the way to proceed.

Mr. Mackay: The concerns we are raising about governance, to which I referred earlier, really do concern the current governance. For example, we have been given two audited statements for 1985 for two different organizations incorporated separately. One says it is carrying on business as Canada Christian College; the accompanying letter to the other one says this particular corporation is one and the same as Canada Christian College.

Who are on the boards of directors of these different corporations? Who are the members? We do not know. The provisions in the bill would establish the type of governing structure that the ministry supports. We should note that I think there should be at least one amendment to that section, because one of the individuals who is referenced in the schedule of the bill, Paul Melnichuk, is listed in the schedule as a senior minister of the Prayer Palace, but in section 4 of the bill the body that is referred to is his former affiliation, which is the senior minister of the Nondenominational Faith-Cathedral.

I just raise that as one remaining technical concern that should have been changed in draft before they--

Dr. E. S. McVety: It is the same place but a change of name.

Mr. Mackay: That is something that should have been reflected. The ministry is not at this time raising concerns with the governing structure that would be established by the bill. We do think you need to wonder why the various incorporated bodies are carrying on business as Canada Christian College.

Mr. Allen: Can we have an answer to that question?

Mr. C. McVety: The ministry has had this bill since June 1986, and now--

Mr. G. I. Miller: June 8, 1986.

Mr. C. McVety: No, the Legislative Assembly circulated this bill.

Mr. G. I. Miller: We just got the bill now.

Mr. C. McVety: But the ministry had it in June 1986 and now, on June 19, 1987, it raises that question. We would have well dealt with that at an earlier date if we could have, but we had no questions raised between then and now.

Mr. Allen: With all respect to the witness, I think it is clear from the chronology that has been given us, and one simply has to rely upon that, that questions about the various corporations that have functioned in alliance with, in support of, or in the name of Canada Christian College have changed from time to time, and the ministry has said it has had some concern about that. What the ministry has phrased in this letter on June 19, I think, is a more concise and pointed problem of statement of that more general concern which has been voiced. So I think it is perhaps not quite fair to the ministry to say that it has not been raised, and it has only been raised at the last minute.

But what I would like to have clarified for the committee is the corporate status with regard to those various named bodies that have functioned along with or for Canada Christian College by various names and for which now, as Mr. Mackay has alluded to within the last two years, there have been slightly different phrasings of that relationship or different names given to those bodies. Could you clarify that for us? Obviously, it is causing some confusion.

Dr. E. S. McVety: It has been confused. Number one, Canadian Non-Denominational Association for Education and Evangelism Inc. is a federal corporation under which Canada Christian College operates. Canada Christian Evangelical Missionary Inc. is a charity, a nonprofit organization, which by donations supports the work of Canada Christian College. There are two organizations: one is federal, which does not issue receipts; the other is an Ontario corporation, which is largely contributing to and supportive of Canada Christian College and which holds the title as a charity to the property. Those are the two organizations.

Mr. Allen: Thank you very much. What is the problem that the

ministry has with that structure that we can get hold of, so that the committee can understand that objection?

Mr. Mackay: There is one other association that comes into it and that is the Association of Education and Evangelism, which is referenced in section 4, which would be one of the supporting bodies and which, according to the preamble of the bill, did not establish the college. The college was founded with the support of the association. An earlier draft of the preamble suggested that the association had indeed established the college. The preamble was, I guess, reworded following the concerns originally raised by the ministry about that.

I am not aware, for example, that we have ever had a written explanation as to the various governing groups and their relationships. We notice there are audited statements supplied from different auditors for the two different groups. We ask the questions: Why different auditors? Why different corporations to hold the assets or some of the assets in another corporation or some of the other assets? We are just asking.

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Mr. Allen: I wonder whether Dr. McVety would explain the relationship of the Association for Education and Evangelism to the other two bodies that he has in the bill.

Dr. E. S. McVety: That organization was established 25 years ago in Manitoba and 23 years ago was given extraprovincial licence in Ontario. I have been involved with that organization from its inception. It has had no legal connection with Canada Christian College, but through its membership it has lent valuable assistance and many of the members are interchangeable between the two, but it does not enter into the present situation. Only in as much as we mentioned in the preamble--it had been of assistance in the early days of the college.

Mr. Allen: And also, if I might add, it is one of the four bodies from which you draw the members of your governing structure.

Dr. E. S. McVety: Yes. That is correct.

Mr. Allen: So it does not have any closer actual, legal or financial association with your organization than does the Presbyterian General Assembly (Korean-Canada), the Pentecostal Holiness Denomination, (Canadian District) or the Non-Denominational "Faith Cathedral?" Those are all on a par with respect to legal status?

Dr. E. S. McVety: Yes.

Mr. Chairman: Before we proceed further, could I inquire whether or not, when we get to the vote, the parties are going to require time to get their members here to vote? Let us do that now rather than extend this by up to 20 minutes longer, if that is the case.

Mr. Dean: Yes, I think we may.

Mr. Chairman: Can we perhaps set that in motion now?

Mr. Dean: I will see where our errant people are.

Mr. Chairman: Thank you. Any further questions?

Mr. Allen: That is all.

Mr. Haggerty: I would like to take another view of the bill before us. Perhaps this is an area we have been skirting around. I want to know something about the purpose--I think the main purpose of this bill is the granting of degrees. What criteria are there for students? Do they have a graduate diploma from the secondary school system in Ontario?

Dr. E. S. McVety: Yes. This is our new catalogue which has not yet been distributed. It outlines the criteria for our degrees. We follow a standard requirement of four years beyond high school for a bachelor of theology degree and three years beyond a bachelor's degree for the master of divinity, and our standards are in keeping with accepted standards around the world for theological degrees.

Mr. Haggerty: Your teaching staff would have recognized degrees in theology then?

Dr. E. S. McVety: Yes. Each of the members of our teaching staff has a masters degrees or higher.

Mr. Haggerty: You are pretty well meeting the same standards as any other college in theology granting degrees?

Dr. E. S. McVety: We believe we are. Yes.

Mr. Haggerty: It would be of a similar nature.

Dr. E. S. McVety: Our graduates have been accepted by maybe a dozen or 15 outstanding American theological colleges.

Mr. Haggerty: What about Ontario? Would your teaching staff who are qualified and your students who are qualified by graduating from a secondary school system in Ontario meet the requirements of other similar theology colleges or universities in Ontario?

Dr. E. S. McVety: The universities do not accept Bible college degrees. For instance, the University of Toronto will not accept any independent Bible college degrees to my knowledge. York University is the same. It is very different when you talk about the universities and some other colleges. Some of our students have transferred to Sir Wilfrid Laurier and have had credits accepted. But we tell students when they come, as do all independent Bible colleges, that a theological degree from a college like ours is not automatically accepted by the universities because it is not. But within our ranks, with the acceptance of the denominations we serve, our standards are considered high and acceptable.

Mr. Haggerty: But there are universities in Ontario that will accept your students and give them credits--

Dr. E. S. McVety: Some, yes.

Mr. Haggerty: --which are then applied to further their education.

Dr. E. S. McVety: But we do not make that as a general statement,

because generally speaking, independent colleges--Bible colleges are not very successful with getting credits in the universities.

Mr. C. McVety: You are dealing with two different areas of education, and they do not cross over too often. You are dealing with theology and then going into liberal arts, and it is very difficult to cross over that threshold. We make no contention to offer any program towards a liberal arts degree.

Mr. Haggerty: Are the library resources required for the education of your students and so on just within the confines of your college, or do you have access to other resources here, such as the University of Toronto?

Mr. C. McVety: Yes. With our very strategic location in the educational district of Toronto, we have our own library but our students can also obtain a U of T library card, which gives them access, within walking distance, to the best library facilities in Canada.

Mr. Haggerty: So you have an agreement with the university on this?

Mr. C. McVety: Yes.

Mr. Haggerty: What were your reasons for locating in the OISE building in the first place?

Mr. Chairman: Mr. Haggerty, I do not want to--

Mr. Haggerty: I think we have to get--we have dealt with the financial end of things. I am looking at the area of, when a student graduates from the college, is he able to go out and do the job he was intended to do in bringing about the movement of the Christian faith? It is a much different approach from what other members have taken. I am concerned about this particular area.

Dr. E. S. McVety: I believe we have had as much or more success in this regard as any other Bible college I know of. I graduated from one in Saskatchewan, way back, a four-year college, Christian and Missionary Alliance in Canada, so I am well acquainted with the Bible college movement. Our graduates have been very successful and are pastors of some of the largest churches and are missionaries all over the world. I was going to bring a group today. Ultimately, I did not feel it was really the thing to do, but we have been very successful with the product of our college.

Mr. Haggerty: Now I am going to direct a question to the person representing the Ministry of Education, am I correct?

Mr. Cummins: Colleges and Universities.

Mr. Haggerty: Do you feel they are meeting the criteria, whatever the criteria may be that the ministry has? From the dialogue that has taken place this morning, I assume it changes almost every day or every year. What are your criteria in this area?

Interjection: That was stated--

Mr. Cummins: I am sorry, am I being asked?

Mr. Haggerty: Yes. Let us put it on the record.

Mr. Cummins: With respect to institutions that request degree-granting authority, we have in the past differentiated between those which request what you could call secular degree-granting authority and those which request theological authority.

In the case of the secular degree-granting institutions, there has been a policy in place for many years that the government would oppose applications for charters from free-standing institutions that wanted to offer degrees in the secular field. We urged secular institutions to affiliate with a provincially assisted university, so the standards of that institution could be monitored by the senate of the provincially assisted university.

In the case of free-standing theological institutions which requested degrees in theology only, we have not established academic criteria. We have instead stressed the kinds of criteria which have been outlined here this morning: namely, the support of the religious community, adequate resources to run the institution and so forth.

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Ms. E. J. Smith: I have two major problems I want you to address.

You were here during the previous college and its submission. It is obvious that although it only had one minor element left uncompleted to meet the requirements of the ministry, it was prepared to meet those and to have the bill stood down until such time as it had met them. It seems to me therefore, and I am going to put two questions before you answer, so you can relax for a minute, that there was on its part an acceptance of the process of meeting standards that it accepted as a college.

You have a standoff with the ministry and it seems to me quite logical in this standoff that I cannot listen to you alone. I know what I am hearing from them. You have been offered a third party. I do not understand how we can be expected to make a judgement on the recommendations to the House when you will not accept a third party to look at it. You can answer me that first.

Second, I do not clearly understand, and I think it is important to know: there is obviously some reason you want this bill passed. There is some reason that the public interest might be at risk in passing this bill. I do not understand the reasons and advantages to you in having this bill passed. Could you explain to me what they are and how they come forward and have public implications?

Mr. C. McVety: The Ministry of Colleges and Universities, back in May of last year, produced its criteria, which you have in your folder there. In that criteria it qualitatively states what that is. We have said and documented fully that we meet every aspect of that criteria.

Ms. E. J. Smith: Which they deny. They gave us six that you have not met.

Mr. C. McVety: We have not, to this date, had any specific reference to an area where we do not meet that criteria.

Mr. McKessock: The letter of Friday, from the minister--

Mr. C. McVety: He still did not suggest on Friday that we did not meet this criteria that he has issued to us.

Ms. E. J. Smith: We have never yet from here dealt with the six points that he said you had not met. In all this discussion, we have not dealt with those.

Mr. C. McVety: The six points that were drawn there had nothing to do with--

Mr. Chairman: The suggestion they make is attached to the compendium.

Mr. C. McVety: The six points had nothing to do with the criteria that the ministry had outlined.

Ms. E. J. Smith: But they are reasons we should not pass the bill.

Mr. C. McVety: Yes. There were other things, and we would like to deal with those.

Ms. E. J. Smith: That is what we have not done yet.

Mr. C. McVety: The reason we did not go with the external report right away is that we had documented that we met the criteria. We did not see a further need to go through another process to show again that we documented. We did not understand why you have to go through a process twice. You show that you meet it, you show that you meet it once, and they do not tell you where you do not meet it. Then they ask you to go through the whole process again. We did not understand that.

Mr. Chairman: Just by way of clarification, I think they answered earlier that they were told it would take four months for that external review. I think that answers your question. They wished to get it so they could have the degree, I gather, to grant this year, I think, that was what I recollect.

Ms. E. J. Smith: This has been going on for years.

Mr. Chairman: I know, but I think they were anxious to get on with it at this time, I gather.

Ms. E. J. Smith: When was the offer made?

Mr. Chairman: February, I guess; February of--

Ms. E. J. Smith: Now it is June, so had they taken the offer, they would have been in time to grant degrees this year.

Mr. Robinson: I just wanted to point out that the criteria have changed significantly since the thoughts were first passing through people's minds with regard to a bill. Take a look at Hansard--and you have it in your folder--of Thursday, May 26, 1983, some four years past. The statement was made by the then minister, Miss Stephenson, "The ministry will support all reputable Bible colleges that wish to obtain charters, provided that they have the support of the community they wish to serve, have sufficient resources to offer a sound academic program, are not seeking grants from the public purse

and wish to provide only religious or theological degrees." These were the criteria that were utilized at the time the bill was first being thought about.

As was mentioned, since then the government has continually added new criteria, the list of criteria we finally got about a year ago, 1986. There is a further number of criteria, if you like, in the letter of the minister of June 19.

The question I have is, when does it end? When are we going to know from the ministry what it really needs and what it wants to know? If we had known this kind of thing months ago, we could have addressed it and done something about it. The reasons we went ahead with our own review person were the dragging of feet, the stonewalling and the delay that have taken place over a period of months. Never mind whose fault it was. There has been tremendous delay. We have tried to avoid that, so we said, "Let us get somebody to do the job for us."

Who here is going to say Mr. Harder is not a capable, competent person to do the review? Who is to say he is not? If the minister and the people here want to say he is not, fine. We think his report has some merit and we think the ministry could gain something from using that report.

If you want to have another third party do the same thing again, we think it is only fair--let me speak for myself: I think it is only fair that we know who the person is going to be and we have input into what he is going to look at, what he is going to ask and to what he is going to confine himself.

What kind of questions are going to be asked and what kind of report is he going to come up with? Both you and I know that I can go out and get somebody to serve on a committee like that. If I want a negative report, I will go and get the person who is going to give me the negative report. If I want a positive report, I can do that too.

Maybe you can say to us that is what we did; we got a positive report. I think it is fair and reasonable.

Mr. Chairman: I do not think anybody was saying that. I have to shorten this, because we have agreed to sit until one o'clock. If we wish to have this matter resolved, we are going to have to get down to a vote at some point.

Dr. E. S. McVety: I want to answer the good member's question. You asked, why the haste? For 10 years, we have had a graduation in June. Last year, we pressed to the limit to meet the requirements of the ministry so that we could have a graduation. We could not. We did not. Facing this year, we will have 2,500 people in a convocation this Friday night. We are going to have to tell our students they will receive only a certificate or a diploma rather than a degree.

This is a very serious matter with us. We do not know whether we should bring our people together and close the college because of our inability to do what we feel is our religious and proper right. We just cannot understand why, when we have met the criteria, we cannot proceed with what we think, and most people would agree, is a quality, theological educational institution.

Mr. Chairman: In short, I indicated to Ms. Smith that was what I understood your reason for wanting it quickly to be, for that purpose.

Dr. E. S. McVety: Did I answer your question? Is that sufficient?

Mr. Shymko: It was precisely about that.

Mr. Chairman: Do you have a supplementary, Mr. McKessock? We have three minutes left.

Mr. McKessock: Nobody would prefer to have more Christian Bible colleges in this province than I, but I know we have to be not only competent but also be seen to be competent.

Looking at this bill, I cannot see how it would ever pass this committee because of precedents set here. Rather than voting it down, I think the committee should look at deferring it until the college would be able to meet the minister's requirements and get the third-party adviser in. I would make that a motion of deferral.

Mr. Chairman: Just a moment. I have Dr. Allen and Mr. Shymko.

Mr. Shymko: Speaking on that motion, that is precisely what I wanted to say, too. I think all of us are concerned by the traumatic period you have experienced and the unfortunate delays. I know that patience runs out after a while. In retrospect, it is unfortunate that you may have made a decision not to accept the four-month period of an external review offered by the minister. It would be that stage today, and we may have had some changes and the bill would have passed.

Instead of voting on the bill, which means starting from scratch, from zero, once again, I think it would be conducive in resolving the issue and would be to your advantage to give yourself a reasonable time, maybe a four-month period, with the ministry. You have the goodwill and I think the intention of my colleagues that this would probably be the best procedure and way of resolving the issue: deferring it, addressing some of the points raised in the minister's letter of June 19. Notwithstanding the mystery with which the universe unfolds, we do not know whether we will be back here in the fall; we may be back and the bill may well be before us.

Mr. Chairman: We have 30 seconds, Dr. Allen.

Ms. Bryden: You could be back in a different role.

Mr. Hennessy: You may be Premier.

Mr. Allen: I myself am not totally opposed to that course of action, but I am not sure what the applicants feel about that. They are the ones who are here asking for some action. I think they should have the last word on whether they want us to vote in this committee or whether they prefer to withdraw.

May I say, with respect to the third-party referral, there is a big nervousness in my mind about government itself insisting, with good intentions, that the party shall undertake that task on its own, particularly if there is any suggestion that the third party adjudicates more than the strictly physical and legal questions. One of the reasons the then minister, Bette Stephenson, put Bible colleges to one side was so that the state would not be intruding itself upon religious questions per se. It would be most unfortunate if a third-party adjudication in this kind of process were also in

fact to spill over into some judgement about the religious adequacy of the group in question, which ought to be totally outside this discussion.

Therefore, I would want a commitment from the ministry, if I could, of two things. One would be that the ministry would seek a third-party adjudicator along with Canada Christian College; somebody who will be mutually acceptable. With goodwill on both sides, that should not be impossible. The other would be that the matters under adjudication would be strictly those of physical capacity to deliver programs and the legality of the structures, rather than any further matters.

Mr. Chairman: I am going to ask first, very quickly--and just sort of a one-word answer, I am sorry--would you rather have us defer the item to allow this independent review to be done, which will keep you current and get you back here as soon as the review is done and we are in committee, or would you prefer to have us determine that decision today? To make it really short, do you want number one or number two?

Mr. Reinhart: Would the bill continue in the event of an election?

Mr. Chairman: Yes, it is my understanding it would. Is that correct?

Clerk of the Committee Yes, if the House agreed to carry it over.

Mr. Chairman: If the House agreed to carry it over, and up to this point I believe we have been carrying bills over, have we not, Ms. Smith? I think we have continued to carry bills.

Ms. E. J. Smith: We have yet to have a dissolution.

Mr. Shymko: We know that.

Ms. E. J. Smith: That is what I am saying. There may be a difference when you have a complete dissolution.

Mr. Chairman: We are just checking the standing order. Perhaps while we are doing that, Mr. Offer can respond to Dr. Allen's challenge.

Mr. McKessock: It could be reintroduced anyway.

Mr. Hennessy: I would like to get a word in also.

Mr. Chairman: It does not comment on the question of dissolution; it comments on the carriage from one session to the next. So I am not in a position to rule as to whether it continues on a dissolution of the House.

Mr. Hennessy: You give us that impression.

Ms. E. J. Smith: On a point of order, Mr. Chairman--

Mr. Allen: On a point of order, Mr. Chairman--

Ms. E. J. Smith: I think I had a point of order first.

Mr. Allen: Is it not quite clear that unless there is a motion to carry over certain bills, that does not happen session to session, and that with the dissolution of a House, there is no commitment on another House to

continue that legislation? So if there is an election, the matter would have to be introduced de novo.

Ms. E. J. Smith: On a point of order, Mr. Chairman: While on the one hand I am interested maybe in what the applicant wishes, on the other hand we have a motion of deferment in front of us. We had an agreement to meet to one o'clock, and I think we should vote on the motion.

Mr. Hennessy: The only thing is that I think Dr. Allen did make a good point, that if they are going to have some third party, it should be mutually agreed on by both parties.

Ms. E. J. Smith: On the question of deferment, I second the motion.

Mr. Chairman: I am hearing that the motion of deferral is to be put and I am going to call that motion of deferral. We have not have had a reply, as I would like to have had, from the applicants.

Those in favour of Mr. McKessock's motion of deferral?

Those opposed?

Motion agreed to.

Mr. Hennessy: I would like a recorded vote, please.

Mr. Pouliot: It is too late.

Mr. Hennessy: It is not too late. It was not too late the last time when we stood there for Mrs. Bryden. Come on, do not give me that story. I just want to see how they play the game.

Interjection.

Mr. Hennessy: Oh yes, you do.

Ms. E. J. Smith: Who is eligible to vote?

Mr. Chairman: We can have a recorded vote, I understand. I will call the vote again on deferral.

Interjection.

Mr. Chairman: I am advised that we can have a recorded vote.

Mr. Hennessy: You did it before. You were going out the door and you changed your mind for your New Democratic Party friend.

Mr. Chairman: Yes, everyone here is eligible with the exception of Dr. Allen. I am going to put the question again.

Ms. E. J. Smith: Mr. Pouliot is eligible?

Mr. Chairman: Mr. Pouliot is eligible. I am going to put the question again on the motion by Mr. McKessock of deferral.

The committee divided on Mr. McKessock's motion, which was agreed to on the following vote:

Ayes

Dean, Haggerty, McKessock, Miller, G. I., Smith, E. J., Shymko.

Nays

Bryden, Hennessy, Pouliot.

Ayes 6; nays 3.

Mr. Chairman: Thank you very much for appearing before us. I am sorry we could not resolve it.

The committee adjourned at 1:08 p.m.



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